

**SUNNYSIDE ORCHARDS NO. 4, BLOCK 14, LOT 1A, AP (GONZALEZ)
FIVE-LOT SUBSEQUENT MINOR SUBDIVISION AND VARIANCE REQUEST**

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER:

Randy Fifrick *RF*

REVIEWED/

APPROVED BY:

Tristan Riddell *TR*

**PUBLIC HEARINGS/
MEETINGS:**

Planning Board

3:00 p.m. January 20, 2010

BCC Public Hearing:

9:00 a.m. February 18, 2010

Deadline for BCC action (60 working days):

March 6, 2010

SUBDIVIDER/ OWNER:

Frank Gonzalez

774 Ambrose Creek Road

Stevensville, MT 59870

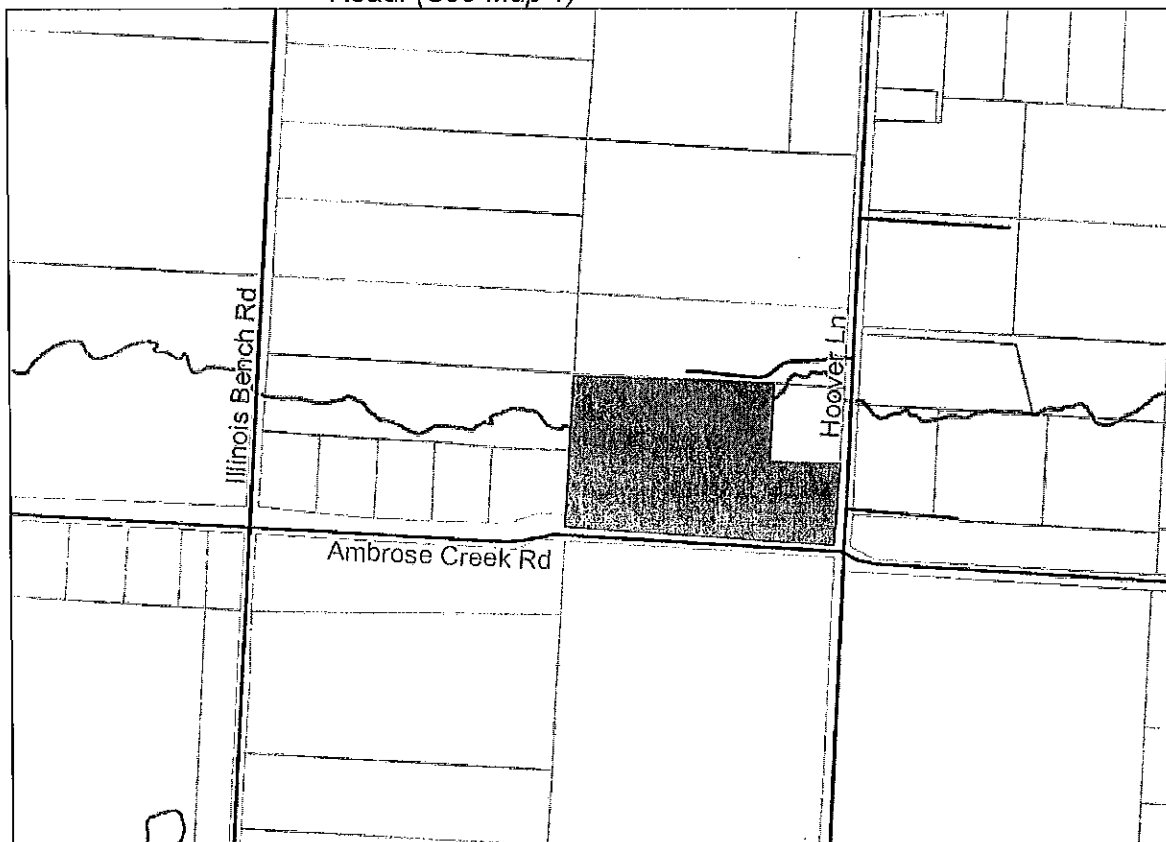
REPRESENTATIVE:

Kammerer Environmental Consulting

PO Box 134

Stevensville, MT 59870

LOCATION OF REQUEST: The property is located northeast of Stevensville off Ambrose Creek Road. (See Map 1)



Map 1: Location Map
(Source Data: Ravalli County GIS Department)

LEGAL DESCRIPTION

OF PROPERTY:

Sunnyside Orchards 4, Block 14, Lot 1A, AP, located in the Southwest ¼ of Section 5, T9N, R19W, P.M.M., Ravalli County, Montana.

APPLICATION

INFORMATION:

The subdivision application was deemed sufficient on December 7, 2009. Agencies were notified of the subdivision on March 27, 2009 and December 17, 2009. Comments received by the Planning Department not included in the application packet are Exhibits A-1 through A-12 of the staff report. **This subdivision is being reviewed under the subdivision regulations amended May 24, 2007.**

LEGAL NOTIFICATION:

Notice of the project was posted on the property and adjacent property owners were notified by regular mail dated December 17, 2009. One public comment has been received to date; it has been included as Exhibit B-1.

DEVELOPMENT

PATTERN:

Subject property:	Residential and Agricultural
North:	Residential and Agricultural
South:	Agricultural
East:	Residential
West:	Residential

INTRODUCTION

Sunnyside Orchards No.4, Block 14, Lot 1A, AP is a proposed subsequent minor subdivision on 13.02 acres that will result in five lots that range in size from 2.00 acres to 3.33 acres. The property is located approximately 6 miles northeast of the Town of Stevensville at the intersection of Ambrose Creek Road and Hoover Lane. As part of the subdivision proposal a floodplain analysis was completed on Ambrose Creek. The applicant is proposing individual wells and individual wastewater treatment systems to serve each lot.

The applicant submitted an amended preliminary plat and subdivision application on January 13, 2010 to address access issues brought forward by the Ravalli County Road and Bridge Department. On January 14, 2010 Planning Staff made the determination that the changes were not material pursuant to RCSR 3-2-9(a) and resumed review of the subdivision and variance applications.

Staff recommends conditional approval of the subdivision proposal.

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS

FEBRUARY 18, 2010D

SUNNYSIDE ORCHARDS NO. 4, BLOCK 14, LOT 1A, AP (GONZALEZ)
FIVE-LOT SUBSEQUENT MINOR SUBDIVISION AND VARIANCE REQUEST

RECOMMENDED MOTIONS

1. That the variance request from Section 5-2-2(c)(6) of the Ravalli County Subdivision Regulations to relieve the developer from having all lots access off of a road internal to the subdivision, be **approved**, based on the findings of fact and conclusions of law in the staff report.
2. That the Sunnyside Orchards No.4, Block 14, Lot 1A, AP Minor Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report. (*Staff Note: The Board of County Commissioners should make a decision regarding parkland dedication as part of the motion.*)

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION

The following conditions have been recommended to mitigate any perceived negative effects that this subdivision will have on the six criteria based on the findings of fact and conclusions of law as discussed within the body of this staff report.

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Section 3-2-8(b)(v)(A), RCSR, Effects on Agriculture*)

Notification of Irrigation Facilities and Easements. Within this subdivision there are irrigation easements, as shown on the final plat. All downstream water users have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. Activities associated with the maintenance of irrigation facilities may include the operation of heavy equipment, the occasional burning of ditch vegetation, and the use of herbicides. Downstream water right holders must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance, which includes but is not limited to the placement of structures or the planting of vegetation other than grass, is expressly prohibited. (*Section 3-2-8(a) and Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities*)

Limitation of Access onto a Public Road. A "no-ingress/egress" restriction exists along the Ambrose Creek Road and Hoover Lane frontages of this subdivision, excepting the approved approaches as shown on the final plat. All lots within this subdivision must use the approaches as approved by the Ravalli County Road and Bridge Department. Locations of the no-ingress/egress restrictions can be found on a reduced copy of the final plat. [*The subdivider shall provide a reduced copy of the plat showing the no-ingress/egress zones.*] This limitation of access may be lifted or amended only with the approval of the Board of Ravalli County Commissioners. (*Section 3-2-8(b)(v)(C and F), RCSR, Effects on Local Services and Public Health and Safety*)

Notification of Proximity to Ambrose Creek. This subdivision is located in close proximity to Ambrose Creek. There is an inherent hazard associated with creeks, due to potential soil erosion, flooding and movement of the creek channel. (*Section 3-2-8(b)(v)(F), RCSR, Effects on Public Health and Safety*)

Flood Hazard Zone for Ambrose Creek. The lowest enclosed floor of each structure (including crawlspaces and basements) and mechanical utilities of all proposed structures should be a minimum of two (2) feet above the modeled/calculated 100-year floodplain elevation or (2) feet above the highest adjacent grade (whichever is greater). A map showing the extent of the 100-year floodplain, including elevations, is included as an exhibit to this document [the subdivider shall include the exhibit as an attachment]. (*Section 3-2-8(b)(v)(F), RCSR, Effects on Public Health and Safety*)

Recommendation for Flood Insurance. Although not within the FEMA-mapped floodplain, it is recommended that property owners obtain flood insurance since standard homeowner's insurance policies do not cover flood damages. (*Section 3-2-8(b)(v)(F), RCSR, Effects on Public Health and Safety*)

Notification of No-Build/Alteration Zone. Within this subdivision there is a no-build/alteration zone, as shown on the plat, to restrict building and disturbance in the Ambrose Creek riparian area. Riparian use covenants for Ambrose Creek apply to the "no-build/alteration zone". No new structure, with the exception of fences, may be constructed in these areas. No new utilities may be constructed in these areas. No fill may be placed in these areas and the vegetation shall be retained in its natural condition. Roads, trails, and utility crossings through these areas are not permitted. (*Section 3-2-8(b)(v)(D,E,F), RCSR, Effects on Natural Environment, Wildlife Habitat, and Public Health & Safety*)

Notification of No-Build Zone. Within this subdivision there is a no-build zone along Ambrose Creek, as shown on the final plat. No new structure may be constructed in this area. Any existing structures, utilities, or other improvements within this zone are "grandfathered". The ability to perform maintenance operations or replace existing improvements in kind is allowed. However, no additions or expansion of existing facilities are allowed within the no-build zone. (*Section 3-2-8(b)(v)(D and F), RCSR, Effects on Natural Environment, Wildlife Habitat and Public Health & Safety*)

Notification of Very Limited Soils. Within this subdivision there are areas of the property identified as potentially having soils rated as limited for road construction and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat and descriptions of the very limited soils in question are included as exhibits to this document [the subdivider shall include the reduced plat and exhibits as attachments]. (*Section 3-2-8(b)(v)(F), RCSR, Effects on Public Health and Safety*)

Wood Stoves. The County recommends that home owners refrain from installing wood stoves if possible. The County further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner chooses to burn wood as a back-up heat source, the County strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-certified pellet stove. More information on low emission, EPA-certified wood stoves is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more information on the

energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (<http://deq.mt.gov/Energy/warmhomes/index.asp>) on the Montana Department of Environmental Quality's website. (*Section 3-2-8(b)(v)(D), RCSR, Effects on the Natural Environment*)

Lighting for New Construction. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit www.darksky.org. (*Section 3-2-8(b)(v)(D and E), RCSR, Effects on Natural Environment, Wildlife, and Wildlife Habitat*)

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their structures tested for radon. Contact the Ravalli County Environmental Health Department for further information. (*Section 3-2-8(b)(v)(F), RCSR, Effects on Public Health & Safety*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Living with Wildlife. Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the presence of wildlife such as white-tailed deer, mule deer, black bear, mountain lion, coyote, fox, skunk, raccoon, and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at <http://fwp.mt.gov>. (*Section 3-2-8(b)(v)(E), RCSR, Effects on Wildlife and Wildlife Habitat*)

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- (a) Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- (b) **Gardens, fruit trees** or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, use properly constructed electric fences and maintain these constantly. (Contact FWP for

information on "all-species electric fencing" designed to exclude wildlife from gardens and/or home areas.)

- (c) **Garbage** must be stored in secure animal-resistant containers or indoors to avoid attracting wildlife such as raccoon and black bear. If stored indoors, it is best not to set garbage cans out until the morning of garbage pickup; bring cans back indoors by the end of the day.
- (d) **Do not feed wildlife** or offer supplements (including salt blocks), attractants, or bait for deer, sheep or other wildlife, including during the winter. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer can attract mountain lions to the area.
- (e) Bears can be attracted to food smells associated with **outdoor food storage**; therefore, freezers and refrigerators should not be placed outdoors on porches or in open garages or buildings. If a freezer/ refrigerator must be located outdoors, attempt to secure it against potential bear entry by using a stout chain and padlock around the girth of the freezer.
- (f) **Birdseed** in bird feeders attracts bears. If used, bird feeders must: 1) be suspended a minimum of 20 feet above ground level, 2) be at least 4 feet from any support poles or points, and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- (g) **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124).
- (h) **Pet food and livestock feed** must be stored indoors, in closed sheds or in bear-resistant containers in order to avoid attracting wildlife such as bears, mountain lion, skunk, and raccoon. **When feeding pets and livestock**, do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- (i) **Barbecue grills** should be stored indoors. Permanent outdoor barbecues grills are not allowed in this subdivision. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife. (Due to the potential hazard of fire and explosion, propane cylinders for gas-fueled grills should be disconnected and kept outdoors. Under no circumstances should propane cylinders be stored indoors.)
- (j) Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences. Contact FWP for a brochure or information on building fence with wildlife in mind.
- (k) **Compost piles** can attract skunks and bears. If used they should be kept in wildlife-resistant containers or structures. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Due to the potential fire hazard associated with decomposition of organic materials, compost piles should be kept at least 10 feet from structures.)
- (l) **Apiaries (bee hives)** could attract bears in this area. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)

Riparian Use Covenants for Ambrose Creek. Healthy, naturally functioning riparian areas benefit fish and wildlife, as well as agriculture and recreation. Encouraging the development of native vegetation (including shrubs and trees), while *discouraging* actions such as grading, planting and irrigating lawns, mowing or cutting or clearing vegetation, and unrestricted livestock grazing, would help preserve the functionality of the creek and its riparian areas for fisheries, as well as protect and improve wetland vegetation, enhance slope stability, and protect property from eroding banks and possible flooding. The following covenants apply to the "no build/no alteration zone", which encompasses Ambrose Creek and its associated floodplain as shown on the final plat, and are designed to help avoid damage to creek and its riparian areas, as well as possibly enhancing the natural functioning of the area. (*Section 3-2-8(b)(v)(D,E,F), RCSR, Effects on Natural Environment, Wildlife Habitat, and Public Health & Safety*)

The following restrictions apply to the "no-build/alteration zone" within this subdivision:

- (a) No building, no new roads or alteration of the zone is allowed.
- (b) No motorized use. Only foot traffic is allowed in the zone.
- (c) It is illegal to modify the streambed or streambanks of a perennial stream without a "310" permit (Montana Natural Streambed and Land Preservation Act). Certain other actions near Ambrose Creek may require state and/or federal permit(s). Contact the Ravalli County Conservation District office in Hamilton for further information.
- (d) Keep livestock out of stream and buffer zone. Develop off-stream watering facilities (e.g., water troughs) for livestock, and use fences if necessary to keep livestock from trampling and grazing riparian vegetation. (See later covenant item for wildlife friendly fence guidelines.)
- (e) Development of off-channel watering facilities cannot include water from Ambrose Creek if the lot(s) does not have valid water rights to the stream. If no water rights exist for, or have not been transferred to the property, then water cannot be diverted from the creek for any use. Residents should consult with the Montana Department of Natural Resources for questions on water rights.
- (f) Wildlife-friendly fence guidelines. a) For wooden rail fences: no more than 3 rails, with the bottom of the bottom rail at least 18" off the ground; top of the top rail no higher than 42" off the ground; b) For wire fences: use smooth wire, no more than 3 wires, top wire no higher than 42" off the ground and bottom wire at least 18" from the ground. These designs allow calf elk, fawn deer and other wildlife to crawl under the fencing, while allowing adult elk and deer to jump the fence. (Contact FWP for information or a brochure for building fence with wildlife in mind.)
- (g) No disturbance of vegetation, do not cut or remove live or dead vegetation, particularly shrubs and trees in the zone. Wood (i.e., fallen branches, downed trees) is an important part of fish habitat and contributes significantly to overall stream health. Wood regularly causes bed scour that creates pools where fish reside to feed and seek cover. Wood also stores sediment that is used for spawning. Dead trees also function as important wildlife nesting habitat. Exception: proper use of chemicals or other methods of control for noxious weeds is encouraged, and planting appropriate native riparian vegetation (trees, shrubs) is allowed.
- (h) Do not plant lawns or mow in the zone. Leave or plant native vegetation as ground cover as this avoids the use of fertilizers that contribute to water quality problems.
- (i) If planting is planned for this area, the goal should be to re-establish native plant species (grasses, forbs, shrubs and trees) appropriate to the site.
- (j) In summary, allow riparian areas to remain undisturbed. Do not modify them unless such change would help return the area to a natural state.

Control of Noxious Weeds. A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. (Section 3-2-8(b)(v)(A and D), RCSR, *Effects on Agriculture and Natural Environment*)

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Three Mile Rural Fire District has adopted the Fire Protection Standards, which require lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. (Section 3-2-8(b)(v)(C and F), RCSR, *Effects on Local Services and Public Health & Safety*)

Access Requirements for Lots within this Subdivision. The Ravalli County Fire Council, which includes the Three Mile Rural Fire Department, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Three Mile Rural Fire Department for further information. (Section 3-2-8(b)(v)(C and F), RCSR, *Effects on Local Services and Public Health & Safety*)

No-Build Zone. Within this subdivision there is a no-build zone located along Ambrose Creek, as shown on the final plat. No new structure may be constructed in this area. Any existing structures, utilities, and other improvements within this zone are "grandfathered". The ability to perform maintenance operations or replace existing improvements in kind is allowed. However, no additions or expansion of existing facilities are allowed within the no-build zone. (Section 3-2-8(b)(v)(D and F), RCSR, *Effects on Natural Environment and Public Health & Safety*)

Drainage Structures on Ambrose Creek. If any new drainage structures (including culvert, bridges, etc) crossing Ambrose Creek are constructed or replaced within the limits of the proposed subdivision they should be adequately designed to convey a 100-year flood event with no backwater. This will avoid creating new flooding issues in the future and will ensure consistency with the assumptions in the subdivision's floodplain analysis. (Section 3-2-8(b)(v)(D and F), RCSR, *Effects on Natural Environment and Public Health & Safety*)

Limitation of Access onto a Public Road. A "no-ingress/egress" restriction exists along the Ambrose Creek Road and Hoover Lane frontages of this subdivision, excepting the approved approaches to the internal subdivision road, Lucy Lane and the driveway accessing Lot 1A-5. Locations of the no-ingress/egress restriction can be found on a copy of the final plat. This limitation of access may be lifted or amended only with the approval of the Board of Ravalli County Commissioners. (Section 3-2-8(b)(v)(C and F), RCSR, *Effects on Local Services and Public Health and Safety*)

Archeological Resources. If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. (Section 3-2-8(b)(v)(D), RCSR, *Effects on Natural Environment*)

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. (*Effects on all six criteria*)

3. The subdivider shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Section 3-2-8(b)(v)(C), RCSR, Effects on Local Services)*
4. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Section 3-2-8(b)(v)(C and F), RCSR, Effects on Local Services and Public Health & Safety)*
5. Prior to final plat approval, the subdivider shall provide a letter from the Three Mile Rural Fire District stating that the subdivider has provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for all lots. Alternatively, the subdivider may provide evidence that a \$900 per newly created lot contribution has been submitted to the Three Mile Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Section 3-2-8(b)(v)(C and F), RCSR, Effects on Local Services and Public Health & Safety)*
6. The following statement shall be shown on the final plat: "The Ravalli County Fire Council, which includes the Three Mile Rural Fire District, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Three Mile Rural Fire District for further information". *(Section 3-2-8(b)(v)(C and F), RCSR, Effects on Local Services and Public Health & Safety)*
7. The subdivider shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on Public Safety Services (Sheriff, E-911, DES). The subdivider shall ensure that the decided upon mitigation has been implemented prior to final plat approval. *(Section 3-2-8(b)(v)(C and F), RCSR, Effects on Local Services and Public Health & Safety)*
8. The subdivider shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on the Lone Rock and Stevensville School Districts. The subdivider shall ensure that the decided upon mitigation has been implemented prior to final plat approval. *(Section 3-2-8(b)(v)(C), RCSR, Effects on Local Services)*
9. The subdivider shall work with the Lone Rock and Stevensville School Districts to determine whether or not a bus shelter and/or school bus turnout lane or turnaround should be constructed along Ambrose Creek Road. The subdivider shall provide evidence that they have worked with the School Districts prior to final plat approval and any required improvements meet the minimum standards as decided upon by the School Districts. If any improvements are required, the subdivider shall complete the improvements prior to final plat approval. *(Section 3-2-8(b)(v)(C and F), RCSR, Effects on Local Services and Public Health & Safety)*
10. The subdivider shall provide evidence that a Collection Box Unit (CBU) has been installed atop a concrete slab, in accordance with the Stevensville Post Office's standards, and that the installation has been approved by the Stevensville Post Office prior to final plat approval. Alternatively, the subdivider shall provide evidence from the Stevensville Post Office that a CBU is not required. *(Section 3-2-8(b)(v)(C), RCSR, Effects on Local Services)*

11. The subdivider shall provide for an additional 5 feet of public road and utility easement along the Ambrose Creek Road and Hoover Lane frontages of the subdivision on the final plat. *(Section 3-2-8(b)(v)(C), RCSR, Effects on Local Services)*
12. The final plat shall show a no-ingress/egress zone along the subdivisions frontages with Ambrose Creek Road and Hoover Lane, except for the approved approach for the internal subdivision road and driveway. *(Section 3-2-8(b)(v)(C and F), Effects on Local Services and Public Health & Safety)*
13. The final plat shall show 10-foot wide irrigation easements centered on all newly proposed irrigation pipelines on the property and all proposed irrigation easements as shown on the preliminary plat, shall be shown on the final plat. *(Section 3-2-8(a) and (b)(v)(B), RCSR, Effects on Agricultural Water User Facilities)*
14. In order to alleviate any impacts of the subdivision relative to the potential loss or disturbance of farmland soil of statewide importance, it is recommended that the subdivider and BCC negotiate an acceptable form of mitigation. Potential mitigative measures may include, but are not limited to: reservation of a no-build zone around agriculture soils, defining building envelopes, or providing a monetary contribution to an acceptable organization. The subdivider shall ensure that any decided upon mitigation has been implemented prior to final plat approval. *(Section 3-2-8(b)(v)(A), RCSR, Effects on Agriculture)*
15. The proposed no-build/alteration zone, as shown on the preliminary plat, shall be shown on the final plat. *(Section 3-2-8(b)(v)(D, E, F)), RCSR, Effects on Natural Environment, Wildlife Habitat, and Public Health & Safety)*
16. A 100 foot no-build zone extending horizontally from the modeled 100-year floodplain of Ambrose Creek shall be shown on the final plat. Where the no-build zone is overlapped by the no-build/alteration zone the no-build/alteration zone shall take precedence. Any existing structures, utilities, or other improvements within this zone are "grandfathered". The ability to perform maintenance operations or replace existing improvements in kind is allowed. However, no additions or expansion of existing facilities are allowed within the no-build zone. *(Section 3-2-8(b)(v)(D and F)), RCSR, Effects on Natural Environment, Wildlife Habitat, and Public Health & Safety)*
17. The following statement shall be shown on the plat: "The lowest enclosed floor of each structure (including crawlspaces and basements) and mechanical utilities of all proposed structures should be a minimum of two (2) feet above the modeled/calculated 100-year floodplain elevation or two (2) feet above the highest adjacent grade (whichever is greater)." *(Section 3-2-8(b)(v)(F), RCSR, Public Health & Safety)*
18. The internal subdivision road shall be labeled as a "public road and utility easement" on the final plat. *(Section 3-2-8(b)(v), Effects on Local Services)*
19. The final plat shall show an additional 5-foot public trail easement along the Ambrose Creek Road frontage of this subdivision to facilitate a potential future trail along Ambrose Creek Road. *(Section 3-2-8(b)(v)(F), Effects on Public Health and Safety)*

FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)

The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq. Those items that are not required of this subdivision have been noted by strikethrough.

1. A statement from the project surveyor or engineer outlining how each final plat requirement or condition of approval has been satisfied shall be submitted with the final plat submittal.
2. One paper and two mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) shall be submitted prior to final plat approval. The final plat shall conform to the preliminary plat decision. The following features are required on the Final Plat:
 - (a) Project name
 - (b) Title block
 - (c) Certificate of registered owner – notarized
 - (d) Certificate of registered land surveyor with seal
 - (e) Certificate of governing body approval
 - (f) Signature block for Clerk and Recorder, preferably in lower right hand corner
 - (g) ~~Certificate of public dedication~~
 - (h) Certificate of park cash-in-lieu payment
 - (i) Other certifications as appropriate
 - (j) North arrow
 - (k) Graphic scale
 - (l) Legal description
 - (m) Property boundaries (bearings, lengths, curve data)
 - (n) Pertinent section corners and subdivision corners
 - (o) Names of adjoining subdivisions/certificates of survey
 - (p) Monuments found
 - (q) Witness monuments
 - (r) Acreage of subject parcel
 - (s) Curve data (radius, arc length, notation of non-tangent curves)
 - (t) Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
 - (u) Lots and blocks designated by number (dimensions/acreage)
 - (v) Easements/rights of ways (location, width, purpose, ownership)
 - (w) ~~Dedication for public use (boundaries, area, purpose)~~
 - (x) No-build/alteration zones
 - (y) No-ingress/egress zones
 - (z) Water resources (rivers, ponds, etc.)
 - (aa) Floodplains
 - (bb) Irrigation canals including diversion point(s), etc.
 - (cc) ~~High pressure gas lines~~
 - (dd) Existing and new roads (names, ownership, etc.)
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
4. Any variance decisions shall be submitted with the final plat submittal.
5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
6. The final plat review fee shall be submitted with the final plat submittal.
7. A Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.

9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
10. ~~Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.~~
11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
12. A copy of the appraisal report, per Section 6-1-7, dated no less than six (6) months from the date of the submittal, for calculating the cash-in-lieu of parkland dedication and a receipt from the County Treasurer's Office for the payment of cash-in-lieu of parkland dedication, shall be submitted with the final plat submittal.
13. Road and driveway approach and encroachment permits shall be submitted with the final plat submittal.
14. Evidence of a Ravalli County-approved road name petition(s) for each new road shall be submitted with the final plat submittal.
15. ~~Engineering plans and specifications for all central water and sewer systems and any other infrastructure improvements requiring engineered plans shall be submitted with the final plat submittal.~~
16. Final Road Plans and Grading and Storm Water Drainage Plan shall be submitted with the final plat submittal.
17. Road certification(s) shall be submitted with the final plat submittal.
18. Utility availability certification(s) shall be submitted with the final plat submittal.
19. Road/common access maintenance agreement(s), signed and notarized, shall be submitted with the final plat submittal.
20. A signed and notarized master irrigation plan, or if one is not required, written and notarized documentation showing how the water rights are to be divided or written and notarized documentation indicating that the water rights will be removed from the property shall be submitted with the final plat submittal.
21. ~~A notarized statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch shall be submitted with the final plat submittal.~~
22. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
23. ~~Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.~~
24. A copy of the letter sent to the appropriate school district(s) stating the subdivider has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal.
25. ~~Signed and notarized homeowner association documents, including bylaws, covenants, and/or declarations shall be submitted with the final plat submittal.~~
26. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required, shall be submitted with the final plat submittal. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2) Specific infrastructure improvements potential required for this subdivision are the installation of the irrigation delivery system, installation of a CBU and concrete slab, construction of an internal road, construction of the bus shelter and turnout.
27. The subdivider shall pay the pro rata share of the cost to improve the portions of Ambrose Creek Road and Hoover Lane leading to the subdivision from Eastside Highway prior to final

plat approval. The pro-rata calculation shall be based on three additional lots from the access onto Ambrose Creek Road and one additional lot from the access onto Hoover Lane. (Section 5-4-5(d), RCSR)

VARIANCE REQUEST

The applicant is requesting a variance from Section 5-2-2(c)(6) of the Ravalli County Subdivision Regulations to relieve the developer from constructing an internal road that would provide access to all lots within the subdivision, as the subdivision fronts on Ambrose Creek Road which is classified as a minor collector roadway. The subdivider is proposing to access four lots from an internal subdivision road off Ambrose Creek Road and access one lot from a driveway off Hoover Lane.

Five Variance Review Criteria

A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.

Findings of Fact:

1. Ambrose Creek Road is a County-maintained road classified as a minor collector. (RCSR, Exhibit A as amended May 24, 2007)
2. Hoover Lane is a County-maintained road classified as a major local access road. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
3. The proposed subdivision would create five residential lots. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)
4. There is an existing driveway off Ambrose Creek Road. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
5. The subdivider has received a preliminary approach permit from the Ravalli County Road and Bridge Department (RCRBD) for the change of use of the existing driveway to be utilized as an approach for an internal road. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)
6. The subdivider has received a preliminary approach permit from the RCRBD for the proposed driveway access for Lot 1A-5 off Hoover Lane. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)
7. The variance application states that the proposed lot accesses are not detrimental to public health and safety as both approaches have adequate sight distance and have been preliminary approved by the RCRBD. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Variance Application)

Conclusion of Law:

Based on the preliminary approval by the RCRBD of the two approaches, one onto Ambrose Creek Road and one onto Hoover Lane, it can be determined that the granting of the variance will not be detrimental to the public health, safety or general welfare or injurious to other adjoining properties, as each approach conforms to the requirements for approaches onto County-maintained roads as administered by the RCRBD. (Staff Determination)

B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.

Findings of Fact:

1. The variance application states that the configuration of the lots for this property does not lend itself to a single access in that the historic and existing access road is the most desirable access point to serve Lots 1A-1, 1A-2, 1A-3 and 1A-4. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Variance Application)
2. There are many parcels within the county that have frontage on two separate roadways. (Ravalli County GIS Data)

Conclusions of Law:

1. The configuration of the lots and in the internal road in the subdivision could be altered to allow all lots to access via an internal road. (Staff Determination)
2. The conditions upon which the variance is proposed are not unique to the property. (Staff Determination)

C. Physical conditions, such as topography or parcel shape, prevent the applicant from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).

Findings of Fact:

1. The variance application states that the topography of the parcel, it has compound slopes stemming east to west, as well as a pronounced dip to the south at the frontage along Ambrose Creek Road, thus, the placement of one access roadway to access all of the lots in this subdivision either severs lots in two, or creates grading and drainage issues. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Variance Application)
2. The majority of the topography of this parcel is relatively flat with slopes of 0 – 2 percent. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat, Staff Determination)

Conclusion of Law:

No physical condition exists to prevent the applicant from meeting the strict letter of the law. (Staff Determination)

D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.

Findings of Fact:

1. The application states this variance will not vary any zoning provisions. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Variance Application)
2. The unincorporated areas of Ravalli County are not zoned, excepting voluntary zoning districts. (Ravalli County Clerk & Recorder's Office)
3. The property is not within one of Ravalli County's adopted voluntary zoning districts. (Ravalli County Clerk & Recorder's Office)
4. Ravalli County voters voted to repeal the County's Growth Policy in the 2008 General Election. Consequently, Ravalli County does not have a Growth Policy. (2008 Ravalli County General Election (R-1-08))

Conclusion of Law:

Neither zoning regulations nor the Growth Policy apply to the variance request. (Staff Determination)

E. The variance will not cause a substantial increase in public costs.

Findings of Fact:

1. The property is currently accessed off Ambrose Creek Road. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)
2. Ambrose Creek Road and Hoover Lane are County-maintained roads. (Exhibit A, RCSR)
3. Approximately 32 additional average daily trips, assuming 8 trips per day per lot, will be generated onto these County-maintained roads with the approval of the proposed subdivision. (Staff Determination)
4. The subdivider will be required to pay a pro-rata share of the costs to improve all non-County-standard County-maintained roads providing access to the subdivision. The assessment will include the portions of Hoover Lane and Ambrose Creek Road that will provide access to proposed Lot 1A-5. (5-4-5(d), RCSR and Staff Determination)

5. The variance application states that granting of this variance will not cause any increase in public costs. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Variance Application)

Conclusion of Law:

Because the subdivider will be required to pay a pro-rata share of the costs to improve County-maintained roads leading to subdivision, the granting of the variance will not cause a substantial increase in public costs. (Staff Determination)

Prerequisite Variance Criteria

A. Strict compliance with these regulations will result in undue hardship.

Findings of Fact:

1. The conclusion for Criterion B is that the conditions upon which the variance is proposed are not unique to the property.
2. The conclusion for Criterion C is that there are no physical conditions preventing the applicant from meeting the strict letter of the law.

Conclusion of Law:

Strict compliance with these regulations will not result in an undue hardship.

B. Compliance is not essential to the public welfare.

Findings of Fact:

1. The conclusion for Criterion A is that granting the variance will not be substantially detrimental to public health and safety, general welfare, and adjoining properties.
2. The conclusions for Criterion D are that the variance request does not pertain to any applicable zoning regulations and does not vary from the provisions in the Growth Policy.
3. The conclusion for Criterion E is that the granting of the variance will not cause a substantial increase in public costs.

Conclusion of Law:

Compliance is not essential to the public welfare.

C. Overall Conclusion on Hardship and Public Welfare

The variance application provides evidence that there is not an undue hardship. However, it also provides that compliance with the RCSR is not essential to the public welfare.

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

A. Provides easements for the location and installation of any planned utilities.

Findings of Fact

1. Existing utilities are located along Ambrose Creek Road and Hoover Lane. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
2. Proposed utilities will be located along Lucy Lane. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
3. Ambrose Creek Road, an existing County-maintained road, is situated within a 50-foot public road and utility easement. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
4. Hoover Lane, an existing County-maintained road, is situated within a 50-foot public road and utility easement. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
5. Lucy Lane, the internal subdivision road, is proposed to be situated within a 60-foot public road and utility easement. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)

Conclusions of Law

1. Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)
2. The proposed subdivision application provides for utility easements. (Staff Determination)

B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.

Findings of Fact

1. Eastside Highway is a state operated roadway. (MDT)
2. Ambrose Creek Road is listed as a county-maintained publicly accessible roadway. (RCSR Exhibit A)
3. Hoover Lane is listed as a county-maintained publicly accessible roadway. (RCSR Exhibit A)
4. Lucy Lane, the internal subdivision road, is proposed to be situated within a 60-foot public road and utility easement. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
5. A driveway off of Hoover Lane is proposed for Lot 1A-5, which will provide legal and physical access to that lot. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
6. There are no physical obstructions preventing access to the site along the primary access routes to the internal subdivision road access or the individual driveway access. (Site Visit 1/11/10)

Conclusions of Law

1. Legal access will be provided to each proposed lot within the subdivision via Eastside Highway, Ambrose Creek Road, Hoover Lane, and the internal road, Lucy Lane, all of which are, or will be, situated within public right-of-ways. (Staff Determination)

2. Based on the fact that there are no elements or features preventing unobstructed access to the site and that there are no elements or features preventing unobstructed access to the proposed lots on-site, the subject property will have physical access. (Staff Determination)

C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.

Finding of Fact

Based on recommended conditions and final plat requirements in accordance with Section 3-4-4(a) of the RCSR, Specific infrastructure improvements potential required for this subdivision are the installation of the irrigation delivery system, installation of a CBU and concrete slab, construction of an internal road, construction of the bus shelter and turnout. (RCSR 3-4-4(a))

Conclusions of Law

1. The subdivider is required to submit evidence that the improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval (Final Plat Requirements 1 and 26).
2. In accordance with Section 3-4-2 of the RCSR, the subdivider may enter into a Subdivision Improvements Agreement and Guaranty, securing the required improvements through a bond, letter of credit, or other acceptable security. (RCSR 3-4-2)
3. The final plat requirements or a Subdivision Improvements Agreement and Guaranty will ensure that all improvements are installed. (Staff Determination)

D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.

Findings of Fact

1. The property is located within and has water shares provided by Bitter Root Irrigation District (BRID). (Subdivision Application Form - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)
2. The subdivider is proposing to reallocate the water shares between the newly created lots. (Subdivision Application Form - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)
3. In a letter dated February 11, 2009, John Crowley, Manager of BRID stated that the BRID Board of Commissioners approved the reallocation of irrigation water for this proposed subdivision. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)
4. The subdivider has provided a master irrigation plan for the subdivision. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)

Conclusions of Law

1. 76-3-504(1)(j), MCA states that when a subdivision creates parcels with lot sizes averaging less than 5 acres, the subdivider is required to:
 - (a) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;
 - (b) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

- (c) reserve and sever all surface water rights from the land.
2. Prior to final plat approval, the subdivider shall provide a final master irrigation plan. The master irrigation plan shall meet all the requirements listed in 3-1-5(a)(xxxv) of the RCSR. (Final Plat Requirement 20)
3. Since the property's water rights are administered by BRID and the subdivider has proposed landowners become party to an irrigation agreement, the proposal will comply with 76-3-504(1)(j)(b), MCA. (Staff Determination)

E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.

Findings of Fact

1. A BRID irrigation pipeline enters the property in the southwest corner, travels approximately 380 feet in an easterly direction, then travels north a distance of approximately 260 feet where it currently ends. (Summary of Probable Impacts - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)
2. As part of the master irrigation plan, the subdivider has proposed an irrigation pipeline that traverses Lot 1A-4 and provides water to Lot 1A-5. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
3. The irrigation plan proposes an additional irrigation pipeline that runs south of the public access and utility easement for the hammerhead turnaround and then turns north to provide irrigation water to Lot 1A-1. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
4. The subdivider is proposing a 5-foot wide irrigation easement where the existing BRID irrigation pipeline enters the property in the southwest corner and traverses the property to where the pipeline turns to the north. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
5. The subdivider is proposing 10-foot wide irrigation easements for the irrigation pipelines providing water to the newly created lots, Lot 1A-1 and Lot 1A-5. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)

Conclusion of Law

1. 76-3-504(1)(k) MCA states that, except as provided in subsection (1)(k)(ii) (the proposal does not meet the criteria in this subsection), the subdivider is required to establish ditch easements in the subdivision that:
 - (a) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
 - (b) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
 - (c) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
2. With the proposed locations of irrigation easements, the proposal will conform with the provisions of 76-3-504(1)(k), MCA. (Staff Determination)

F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.

Findings of Fact

1. Donation or reservation of 0.55 acres of land, or its cash equivalent, is required to meet the parkland dedication requirement. (Hamilton Heights, Block 2, Lots 6 & 7, AP Subdivision Application)

2. The subdivider has proposed cash-in-lieu to meet the parkland dedication requirement. (Hamilton Heights, Block 2, Lots 6 & 7, AP Subdivision Application and Preliminary Plat)
3. On January 20, 2010, Joshua Biebinger of the Ravalli County Park Board provided a letter to the Planning Department stating the Park Board would like to further recommend a 5-foot easement along the Ambrose Creek Road frontage of the subdivision. The letter did not indicate the Board's preference for how the subdivision should meet the parkland dedication requirement. (Exhibit A-12)

Conclusions of Law

1. In accordance with 76-3-621(4), MCA, "the governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks, playgrounds and giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation." (See also Section 6-1-5(e), RCSR)
2. Pursuant to RCSR Section 6-1-5(a)(4)(b), the subdivider is proposing to meet the parkland dedication requirement by making a cash donation to the County. (Staff Determination)
3. If the BCC determines that cash-in-lieu is appropriate, the subdivider will be required to hire an appraiser as outlined in Section 6-1-7. The BCC will determine whether or not the amount is acceptable (Final Plat Requirement 12)

COMPLIANCE WITH APPLICABLE REGULATIONS

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

A. These regulations, including, but not limited to, the standards set forth in Chapter 5.

Findings of Fact

1. With the approval of the requested variance from Section 5-2-2(c)(6), the subdivision design as indicated on the preliminary plat would meet the design standards in Chapter 5 of the RCSR. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
2. This development plan proposal has followed the necessary application procedures and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)
3. The application includes all necessary and applicable information sufficient for public review. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)

Conclusions of Law

1. The preliminary plat and subdivision application meet all applicable substantive requirements in the RCSR. (Staff Determination)
2. The procedures for the application and review of this proposed subdivision have been followed. (Staff Determination)

B. Applicable zoning regulations.

Findings of Fact

1. The unincorporated areas of Ravalli County are not zoned, excepting voluntary zoning districts. (Ravalli County Clerk & Recorder's Office)
2. The property is not within one of Ravalli County's adopted voluntary zoning districts. (Subdivision Application Form - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application, Ravalli County Clerk & Recorder's Office)

Conclusion of Law

There are no zoning regulations that apply to the property. (Staff Determination)

C. Existing covenants and/or deed restrictions.

Finding of Fact

There are no existing covenants or deed restrictions on the property. (Ravalli County Clerk & Recorder's Office)

Conclusion of Law

There are no covenants or deed restrictions that apply to this property. (Staff Determination)

D. Other applicable regulations.

Findings of Fact

1. Following are regulations that may apply to this subdivision:
 - (a) Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
 - (b) Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
 - (c) Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
 - (d) Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
 - (e) Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. The subdividers were made aware of the applicable regulations at a pre-application conference held on June 5, 2007. (Subdivision Application Form - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)

Conclusions of Law

1. Prior to final plat approval, the subdividers are required to submit permits and evidence that they have met applicable regulations. (Section 3-4-4(a), RCSR)
2. With the requirements of final plat approval, the application will meet all of the applicable regulations. (Staff Determination)

E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The subject parcel is classified for tax purposes as residential rural. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
2. The property is adjacent to agricultural properties. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services and 2005 Aerial Photography created by the National Agricultural Imagery Program)
3. The property has been used for limited hay production in the past. (Summary of Probable Impacts - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)
4. According to the NRCS Web Soil Survey Hamilton-Overwhich complex (0 to 2 percent slopes), a soil classified as prime farmland if irrigated, makes up approximately 13% of the property. (Exhibit A-1)
5. The subdivider has proposed placing a restriction on the portion of the subdivision that contains soils classified as prime farmland to prevent other uses that would prevent the land

from being farmed. The subdivider is also willing to donate \$200 for Lot 1A-5, where the majority of the prime farmland exists. (Hamilton Heights, Block 2, Lots 6 & 7, AP Subdivision Application and Preliminary Plat)

6. The subdivider submitted a Ravalli County Subdivision Noxious Weed Evaluation for the property. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)

Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on agriculture. (MCA 76-3-608(3), Section 3-2-8(b)(v)(A), RCSR)
2. In subdivision review, Ravalli County "may require the subdivider to design the proposed subdivision to reasonably minimize potentially significant adverse impacts identified through review." (MCA 76-3-608(4))
3. When requiring mitigation, Ravalli County must consult the subdivider and "give due weight and consideration to the expressed preference of the subdivider." (MCA 76-3-608(5)(b))
4. The Ravalli County Subdivision Regulations do not include design and development standards or final plat requirements relating to the protection of prime farmland or farmland of statewide importance. (Staff Determination)
5. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
6. The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)
7. With the mitigating conditions of approval and requirements of final plat approval, the effects of the subdivision on agriculture will be reduced. (Staff Determination)

Recommended Conditions to Mitigate the Effects on Agriculture

- *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. (Condition 1)*
- *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*
- *In order to alleviate any impacts of the subdivision relative to the potential loss or disturbance of soils classified as prime farmland if irrigated, it is recommended that the subdivider and BCC negotiate an acceptable form of mitigation. Potential mitigative measures may include, but are not limited to: reservation of a no-build zone around agriculture soils, defining building envelopes, or providing a monetary contribution to an acceptable organization. The subdivider shall ensure that any decided upon mitigation has been implemented prior to final plat approval. (Condition 14)*

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact

1. The property is located within and has water shares provided by Bitter Root Irrigation District (BRID). (Subdivision Application Form - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)
2. The subdivider is proposing to reallocate the water shares between the newly created lots. (Subdivision Application Form - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)
3. In a letter dated February 11, 2009, John Crowley, Manager of BRID stated that the BRID Board of Commissioners approved the reallocation of irrigation water for this proposed subdivision. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)

4. The subdivider has provided a master irrigation plan for the subdivision. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)
5. A BRID irrigation pipeline enters the property in the southwest corner, travels approximately 380 feet in an easterly direction, then travels north a distance of approximately 260 feet where it currently ends. (Summary of Probable Impacts - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)
6. As part of the master irrigation plan, the subdivider has proposed an irrigation pipeline that traverses Lot 1A-4 and provides water to Lot 1A-5. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
7. The irrigation plan proposes an additional irrigation pipeline that runs south of the public access and utility easement for the hammerhead turnaround and then turns north to provide irrigation water to Lot 1A-1. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
8. The subdivider is proposing a 5-foot wide irrigation easement where the existing BRID irrigation pipeline enters the property in the southwest corner and traverses the property to where the pipeline turns to the north. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
9. The subdivider is proposing 10-foot wide irrigation easements for the irrigation pipelines providing water to the newly created lots, Lot 1A-1 and Lot 1A-5. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)

Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on agricultural water user facilities. (MCA 76-3-608(3), RCSR Section 3-2-8(b)(v)(B))
2. In subdivision review, Ravalli County "may require the subdivider to design the proposed subdivision to reasonably minimize potentially significant adverse impacts identified through review." (MCA 76-3-608(4))
3. When requiring mitigation, Ravalli County must consult the subdivider and "give due weight and consideration to the expressed preference of the subdivider." (MCA 76-3-608(5)(b))
4. Since the property's water rights are administered by BRID and the subdivider has proposed landowners become party to an irrigation agreement, the proposal will comply with 76-3-504(1)(j)(b), MCA. (Staff Determination)
5. With the proposed locations of irrigation easements, the proposal will conform with the provisions of 76-3-504(1)(k), MCA. (Staff Determination)
6. The placement of structures or the planting of vegetation other than grass within the irrigation easement is prohibited. (MCA 76-3-504(1)(k))
7. When water rights are to be transferred to one or more lots within a subdivision, an irrigation delivery system must be designed and installed. (RCSR Section 5-6-3)
8. The subdivider shall install an irrigation system that delivers the correct allotment of irrigation water to each lot. (Final Plat Requirement 26)
9. With the mitigating conditions of approval, requirements of final plat approval and the filing of a master irrigation plan for the property, effects of the subdivision on agricultural water user facilities will be reduced. (Staff Determination)

Recommended Conditions to Mitigate the Effects on Agricultural Water User Facilities

- *A notification that the placement of structures or the planting of vegetation other than grass is prohibited without the written permission of the ditch owner shall be included in the notifications document. (Condition 1)*
- *The final plat shall show 10-foot wide irrigation easements centered on all newly proposed irrigation pipelines on the property and all proposed irrigation easements as shown on the preliminary plat, shall be shown on the final plat. (Condition 13)*

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

Fire Department

1. The subdivision is located within the Three Mile Rural Fire District. (Subdivision Application Form - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File, Ravalli County GIS Data)
2. Notification letters were sent to the Three Mile Rural Fire District requesting comments on March 27, 2009 and December 17, 2009, but no comments have been received to date. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)
3. The Three Mile Rural Fire District has a station approximately 1.7 miles northwest of the subject property. (Summary of Probable Impacts - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application and Ravalli County GIS Data)
4. The Three Mile Rural Fire District, as a member of the Ravalli County Fire Council, has adopted Fire Protection Standards (FPS), which address access, posting of addresses, and water supply requirements. The FPS also state, that in lieu of an on-site water supply, a cash contribution in the amount of \$900 per lot is acceptable. (Exhibit A-2)

School District

5. The proposed subdivision is located within the Lone Rock School District. (Subdivision Application Form - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File, Ravalli County GIS Data)
6. Students from the Lone Rock School District attend high school at Stevensville High School.
7. It is estimated that 2 school-aged children will be added to the Lone Rock and Stevensville School Districts, assuming an average of 0.5 children per household. (Census 2000)
8. Notification letters were sent to the Lone Rock School District requesting comments on March 27, 2009 and December 17, 2009, but no comments have been received to date. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)
9. County School Superintendent, Ernie Jean, provided the Planning Department the Budget Per Pupil/Tax Levy Per Pupil information for Ravalli County. The budget is based approximately on the previous school years student enrollment figures and does not anticipate costs associated with the addition of new students. According to the document, the budget per pupil is \$9,422 for the Stevensville School District (averaging Stevensville High School and Lone Rock Elementary) which includes capital needs and funds gathered from federal, state, and local sources. The local tax levy per pupil excluding capital, federal, and state funds would be \$2,945 for the Stevensville School District (averaging Stevensville High School and Lone Rock Elementary). (Exhibit A-3)
10. The subdivider is proposing to donate \$400 per new lot to the Stevensville School District and \$500 per new lot to the Lone Rock School District. (Summary of Probable Impacts - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)
11. The County School Superintendent, Ernie Jean, sent a letter to the Ravalli County Commissioners stating that the Ravalli County Educational Transportation Committee recently adopted a resolution requesting that the Commissioners establish a requirement that the developers of each subdivision establish a shelter at a bus stop and turnout, or turnaround, if appropriate, at each subdivision entrance that is off a County owned and maintained road. (Exhibit A-4)

Public Safety

12. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Subdivision Application Form - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)
13. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on March 27, 2009 and December 17, 2009, but no comments have been received to date. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)

14. This proposed subdivision is located approximately 27 miles from the Sheriff's dispatch in Hamilton. (Ravalli County GIS Data)
15. The average number of people per household in Ravalli County is 2.5. This subdivision is estimated to add 10 people to the County. (Census 2000)
16. The subdivider is proposing to donate \$500 per new lot to the Sheriff's Office to mitigate any impacts. (Summary of Probable Impacts - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)

Roads

17. There are five proposed residential lots within this subdivision. It is estimated at build-out that this subdivision could generate a total of 40 vehicular trips per day, assuming eight trips per day per lot. (Subdivision Application Form - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)
18. Eastside Highway is a state operated roadway. (MDT)
19. Ambrose Creek Road, a minor collector roadway, is listed as a county-maintained road. (RCSR Exhibit A)
20. Hoover Lane, a major local access roadway, is listed as a county-maintained road. (RCSR Exhibit A)
21. Lucy Lane, the internal subdivision road, is proposed to be situated within a 60-foot public road and utility easement. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
22. A single driveway is proposed to access Lot 1A-5 off Hoover Lane, thus providing legal and physical access to that lot. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
23. The RCRBD had preliminarily approved the following approaches: the Hoover Lane access was submitted on 11/14/07 and approved on 12/05/07; the westerly access onto Ambrose Creek Road was submitted on 11/13/08 and approved on 01/04/10; and the easterly access onto Ambrose Creek Road was submitted on 04/20/09 and approved on 05/14/09. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application and Exhibit A-5)
24. The requested easterly access onto Ambrose Creek Road has been revoked as it is not consistent with adopted RCRBD policy and because it was not submitted within the context of a subdivision proposal. (Exhibit A-5)
25. The subdivider's proposal is to access four lots via an internal road, Lucy Lane, off Ambrose Creek Road, utilizing the preliminarily approved approach located at the existing driveway, and access Lot 1A-5 via a single driveway off Hoover Lane, utilizing the preliminarily approved approach at that site in concert with the potential for an approved variance from Section 5-2-2(c)(6), RCSR. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
26. The subdivider is required to pay the pro rata share of the cost to improve the portions of Ambrose Creek Road and Hoover Lane leading to the subdivision to meet County standards. The preliminary pro-rata estimate for this subdivision is \$12,473 when using the 32 additional trips per day that this subdivision will generate. The preliminary pro-rata calculation did not take into account the addition of eight vehicular trips per day onto Hoover Lane. The final pro-rata calculation will be based on 24 trips from the Ambrose Creek access and 8 trips stemming from the Hoover Lane access. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)

Ambulance Services

27. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department. Marcus Daly Hospital was contacted on March 27, 2009 and December 17, 2009 but no comments have been received to date. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)

Water and Wastewater Districts

28. The subject property is not in close proximity to any existing water or wastewater districts. (Ravalli County GIS Data)

29. The subdivider is proposing individual wells and individual septic systems facility to serve all lots. (Subdivision Application Form - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)
30. The subdivider submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)

Solid Waste Services

31. Bitterroot Disposal provides service to this site. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)
32. Notification letters were sent to Bitterroot Disposal requesting comments on March 27, 2009 and December 17, 2009, but no comments have been received to date. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)

Mail Delivery Services

33. The United States Postal Service (USPS) sent a letter to the Planning Department on June 8, 2007 and an email on June 29, 2007 requesting that Collection Box Units (CBUs) be required for all subdivisions with eight or more lots (or if the local post office requests a CBU) and that the locations of the boxes be approved by the USPS (Exhibit A-6).

Utilities

34. The proposed subdivision will be served by Ravalli Electric Cooperative and Qwest Communications. (Subdivision Application Form - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)
35. Notification letters were sent to the utility companies requesting comments on March 27, 2009 and December 17, 2009. No comments have been received to date from either utility company. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)

Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on local services. (MCA 76-3-608(3), Section 3-2-8(b)(v)(C), RCSR)
2. In subdivision review, Ravalli County "may require the subdivider to design the proposed subdivision to reasonably minimize potentially significant adverse impacts identified through review." (MCA 76-3-608(4))
3. When requiring mitigation, Ravalli County must consult the subdivider and "give due weight and consideration to the expressed preference of the subdivider." (MCA 76-3-608(5)(b))

Fire District

4. Each lot shall be located within a fire district. (Section 5-7-4(a), RCSR)
5. Because the subject property is located within the Three Mile Rural Fire District, the proposal complies with Section 5-7-4(a), RCSR. (Staff Determination)

School District

6. Taxes from new residents may not be immediately available to School Districts. There is currently no known available data on the average amount of time between when additional students from new residences will enroll in the School District and when School Districts receive tax money from the new residences. Because there may be a lag in the time services are provided and taxes are collected, the subdivider shall negotiate an adequate form of mitigation with the BCC. (Staff Determination)
7. Based on the currently available Census data (0.5 children per household) and available budget data, the expected taxes per household levied per pupil, excluding capital costs, within the Stevensville High School District and Lone Rock Elementary School District would be

\$1,472.50, which is half of the \$2,945 tax levy per public excluding capital budget allotment for the Stevensville School District (averaging Stevensville High School and Lone Rock Elementary). This amount (\$1,472.50) should be taken into consideration and may be utilized as the basis for negotiating an adequate form of mitigation to offset any effects that this subdivision may have on the Stevensville High School and Lone Rock Elementary School Districts. Monetary contributions are not the only acceptable form of mitigation. (Staff Determination)

8. A copy of the letter sent to the appropriate school district(s) stating the subdivider has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal. (Final Plat Requirement 24)
9. A governing body may not deny approval of a proposed subdivision based solely on the subdivision's impacts on educational services. (MCA, 76-3-608(1))
10. Impact fees can be levied only when a jurisdiction has followed the guidelines and requirements as specified within Senate Bill 116. The Stevensville School District has not completed an Impact Fee Study nor has the BCC adopted impact fees. (Staff Determination)

Public Safety

11. Taxes from new residents may not be immediately available to law enforcement services, E-911, Office of Emergency Management (OEM) and Disaster & Emergency Services (DES). There is no available information on the average amount of time between when public safety services begin to serve a new residence and when public safety services receive tax money from that residence. (Staff Determination)

Roads

12. The RCRBD's Access Encroachment Policy establishes guidelines for the issuance of approach permits. Section III(b) sets the standards associated with new approaches onto minor collector roadways. Section III(c) sets the standards associated with new approaches onto local access roadways. The RCRBD issued preliminary approach permits in accordance with the adopted policy. (Ravalli County Resolution No. 2287)
13. The minimum right-of-way for a County-standard roadway is 60 feet. (RCSR Section 5-4-4(h)(Table B-1)
14. Where a subdivision is accessed by a substandard County-maintained road(s), the developer shall contribute to the County an amount equal to the pro-rata share of the improvements necessary to bring said road(s) up to County road standards as described in the County's adopted standards over its relevant length as listed in Table A-I. (RCSR Section 5-4-5(d))
15. The subdivider shall submit final approved approach permits from the Ravalli County Road and Bridge Department prior to final plat approval. (Final Plat Requirement 13)
16. The subdivider shall submit evidence of a Ravalli County-approved road name petition(s) for each new road shall be submitted with the final plat submittal. (Final Plat Requirement 14)
17. Final Road Plans and Grading and Storm Water Drainage Plan shall be submitted with the final plat submittal. (Final Plat Requirement 16)
18. Road certification(s) shall be submitted with the final plat submittal. (Final Plat Requirement 17)
19. A road maintenance agreement, signed and notarized, shall be submitted with the final plat submittal. (Final Plat Requirement 19)
20. The subdivider shall pay the pro rata share of the cost to improve the portions of Ambrose Creek Road and Hoover Lane leading to the subdivision from Eastside Highway prior to final plat approval. The pro-rata calculation shall be based on three additional lots from the access onto Ambrose Creek Road and one additional lot from the access onto Hoover Lane. (Final Plat Requirement 27)

Water and Wastewater Districts

21. The subdivider has provided minimum necessary information for public review as required by 76-3-622, MCA. (Staff Determination)

Solid Waste Services

22. The method of solid waste disposal shall be specified during preliminary plat review. (RCSR Section 5-7-2(a))

Mail Delivery Services

23. Where mail delivery will not be provided to each individual lot, the subdivider shall provide an off-road area for central mail delivery within the subdivision (RCSR 5-7-3)

Utilities

24. Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)
25. The subdivider shall submit utility availability certifications from Northwestern Energy and Qwest Communications prior to final plat approval. (Final Plat Requirement 18)
26. With the mitigating conditions of approval and requirements of final plat approval, effects of the subdivision on local services will be reduced. (Staff Determination)

Recommended Conditions to Mitigate the Effects on Local Services

- A notification and covenant shall be included that restricts access along the Ambrose Creek Road and Hoover Lane frontages of this subdivision, excepting the approved approaches to the internal subdivision road, Lucy Lane. (Conditions 1 and 2)
- To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Condition 3)
- The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Conditions 2 and 4)
- Prior to final plat approval, the subdivider shall provide a letter from the Three Mile Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for all lots. Alternatively, the subdivider may provide evidence that a \$900 per newly created lot contribution has been submitted to the Three Mile Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)
- The following statement shall be shown on the final plat: "The Ravalli County Fire Council, which includes the Three Mile Rural Fire District, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Three Mile Rural Fire District for further information". (Conditions 2 and 6)
- The subdivider shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on Public Safety Services (Sheriff, E-911, DES). The subdivider shall ensure that the decided upon mitigation has been implemented prior to final plat approval. (Condition 7)
- The subdivider shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on the Lone Rock and Stevensville School Districts. The subdivider shall ensure that the decided upon mitigation has been implemented prior to final plat approval. (Condition 8)
- The subdivider shall work with the Lone Rock and Stevensville School Districts to determine whether or not a bus shelter and/or school bus turnout lane or turnaround should be constructed along Ambrose Creek Road. The subdivider shall provide evidence that they have

worked with the School District prior to final plat approval and any required improvements meet the minimum standards as decided upon by the School District. If any improvements are required, the subdivider shall complete the improvements prior to final plat approval. (Condition 9)

- *The subdivider shall provide evidence that a Collection Box Unit (CBU) has been installed atop a concrete slab, in accordance with the Stevensville Post Office's standards, and that the installation has been approved by the Stevensville Post Office prior to final plat approval. Alternatively, the subdivider shall provide evidence from the Stevensville Post Office that a CBU is not required. (Condition 10)*
- *The subdivider shall provide for an additional 5 feet of public road and utility easement along the Ambrose Creek and Hoover Lane frontages of the subdivision on the final plat. (Condition 11)*
- *The final plat shall show a no-ingress/egress zone along the subdivisions frontage with Ambrose Creek Road and Hoover Lane, except for the approved approach for the internal subdivision road and driveway. (Condition 12)*
- *The internal subdivision road shall be labeled as a "public road and utility easement" on the final plat. (Condition 18)*

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Surface Water Features

1. Ambrose Creek meanders along the northern portion of the property. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat) (Site Visit)
2. A Floodplain Analysis was conducted on Ambrose Creek and was conditionally approved by Ravalli County Floodplain Administrator, Laura Hendrix, on April 1, 2009. (Exhibit A-7)
3. In a letter dated, April 21, 2009, FWP provided riparian-use covenants that they recommend should be used to guide use of the creek and its associated riparian areas, in order to preserve water quality and functionality of this natural stream, and for protection of properties from eroding banks and possible flooding. (Exhibit A-8)

Ground Water Quality

4. The subdivider is proposing individual wells and wastewater treatment systems. (Sunset Orchards, Block 2, Lot 24, AP Subdivision Application)
5. The subdivider submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Sunset Orchards, Block 2, Lot 24, AP Subdivision File)

Light Pollution

8. The addition of residences in this area has the potential to increase light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark Sky Association)

Air Quality

9. This proposed subdivision would add 4 new homes to an area of existing low density development northeast of Stevensville. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat) (Site Visit)
10. The Montana Department of Environmental Quality (DEQ) has reviewed the PM2.5 (particulate matter <= 2.5 micron) data collected in 2007 and incorporated it into the PM2.5 dataset from the previous three years (2004-2006). As part of that analysis, DEQ identified several communities that continue to experience poor air quality during certain time periods each year. Those communities are located in the following counties: Lincoln, Missoula, Silver Bow, Ravalli,

Gallatin, Lewis & Clark, Flathead, Sanders, Yellowstone and Cascade. Although this data was collected between 2004 and 2006, it is the most up to date data available in relation to air quality. (Exhibit A-9)

11. Sources of particulate from this subdivision could include fugitive dust associated with increased vehicular traffic and wood-burning stoves. (Staff Determination)

Vegetation

12. The subdivider submitted a Ravalli County Subdivision Noxious Weed Evaluation for the property. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)
13. According to the Montana Natural Heritage Program no plant species of special concern were identified within the same section as the proposal. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)
14. Wetland vegetation was observed on the property in close proximity to Ambrose Creek. (Staff Site Visit 1/11/10)

Historical/Archeological Sites

15. There are no known sites of historical significance on the property. (Subdivision Application Form - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)

Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on the natural environment. (MCA 76-3-608(3), RCSR Section 3-2-8(b)(v)(D))
2. In subdivision review, Ravalli County "may require the subdivider to design the proposed subdivision to reasonably minimize potentially significant adverse impacts identified through review." (MCA 76-3-608(4))
3. When requiring mitigation, Ravalli County must consult the subdivider and "give due weight and consideration to the expressed preference of the subdivider." (MCA 76-3-608(5)(b))

Surface Water Features

4. Based on the fact that Ambrose Creek drains more than 15 square miles and is located within 1,000 horizontal feet of the proposed subdivision, a floodplain analysis was required. The floodplain analysis was submitted, reviewed, and conditionally approved in accordance with Section 3-1-5(a)(xl), RCSR.
5. Recommended no-build/alteration and no-build zones will limit the effects of new development on Ambrose Creek and its associated riparian areas. (Staff Determination)

Vegetation

6. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (MCA 7-22-2152)
7. The subdivider will need to submit a Ravalli County Subdivision "Ground Disturbance and Noxious Weed" Management Plan for the property. (Final Plat Requirement 11)
8. With the mitigating conditions of approval and requirements of final plat approval, effects of the subdivision on the natural environment will be reduced. (Staff Determination)

Recommended Conditions to Mitigate the Effects on the Natural Environment

- *The notifications shall be included a provision notifying lot owners of the no-build/alteration zone within the subdivision (Condition 1)*
- *The notifications shall include a provision recommending full cut-off lighting on new construction. (Condition 1)*

- *The notifications shall include a recommendation that EPA-certified wood stoves should be installed to reduce air pollution and that wood burning stoves should not be used as the primary heat source. (Condition 1)*
- *A notification and covenant shall be included that explains the restrictions within the no-build zone. (Conditions 1 and 2)*
- *The covenants shall include riparian use guidelines for the no-build/alteration zone associated with Ambrose Creek. (Condition 2)*
- *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*
- *The covenants shall include a section discussing the restrictions on the no-build zone within the subdivision. (Condition 2)*
- *The covenants shall include a section discussing the drainage structures and the potential replacement of those structures within the subdivision. (Condition 2)*
- *To ensure that any possible historical sites are preserved, the following statement shall be included in the covenants: "If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". (Condition 2)*
- *The no-build/alteration zone as shown on the preliminary plat shall be shown on the final plat. (Condition 15)*
- *A 100 foot no-build zone extending horizontally from the modeled 100-year floodplain of Ambrose Creek shall be shown on the final plat. (Condition 16)*

CRITERION 5: EFFECTS ON WILDLIFE

Findings of Fact:

1. In a letter received April 21, 2009, FWP stated that this property has an elevated probability of human/wildlife conflict and recommended including "living with wildlife" covenants. (Exhibit A-8)
2. FWP stated that wildlife such as white-tailed deer, coyote, fox, skunk and wild turkey could be found in the area, as well as possible black bear and mountain lion. (Exhibit A-8)
3. Ambrose Creek flows generally east to west through the northern portions of Lots 1A-1 and Lot 1A-3. FWP has not sampled for fish in the vicinity of the proposed subdivision, but FWP sampling several miles upstream yielded westslope cutthroat trout, a Montana Species of Concern. (Exhibit A-8)
4. According to the Montana Natural Heritage Program the Grey Wolf was identified as an animal species of concern that could exist in the same section as the proposal. The subdivider requested and received a waiver from the requirement to submit a sensitive species report for the species based on a lack of habitat on the property. (Exhibit A-10)
5. The addition of new residences in an area that currently has low density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association)

Conclusion of Law:

1. A subdivision proposal must be reviewed for its impacts on wildlife and wildlife habitat. (MCA 76-3-608(3), RCSR Section 3-2-8(b)(v)(E))
2. In subdivision review, Ravalli County "may require the subdivider to design the proposed subdivision to reasonably minimize potentially significant adverse impacts identified through review." (MCA 76-3-608(4))
3. When requiring mitigation, Ravalli County must consult the subdivider and "give due weight and consideration to the expressed preference of the subdivider." (MCA 76-3-608(5)(b))
4. House Bill 486 was recently signed into law by the Governor on May 5, 2009. HB 486 amended MCA 76-3-608, which revises the primary subdivision review criteria to separate

- effects on wildlife and effects on wildlife habitat into separate review criteria. (House Bill 486)
5. Based on the issuance of a waiver from completing a Sensitive Species Report and with the mitigating conditions of approval, effects on wildlife will be reduced. (Staff Determination)

Recommended Conditions to Mitigate the Effects on Wildlife

- *The notifications shall include a provision recommending full cut-off lighting on new construction. (Condition 1)*
- *The covenants shall include a living with wildlife section. (Condition 2)*

CRITERION 6: EFFECTS ON WILDLIFE HABITAT

Findings of Fact:

1. The property is not located in mapped elk or mule deer winter range. (Ravalli County GIS Data)
2. In a letter received April 21, 2009, FWP stated that this property has an elevated probability of human/wildlife conflict and recommended including "living with wildlife" covenants. (Exhibit A-8)
3. According to the Montana Natural Heritage Program the Grey Wolf was identified as an animal species of concern that could exist in the same section as the proposal. The subdivider requested and received a waiver from the requirement to submit a sensitive species report for the species based on a lack of habitat on the property. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)
4. Ambrose Creek flows generally east to west through the northern portions of Lots 1A-1 and Lot 1A-3. FWP has not sampled for fish in the vicinity of the proposed subdivision, but FWP sampling several miles upstream yielded westslope cutthroat trout, a Montana Species of Concern. (Exhibit A-8)
5. In order to protect Ambrose Creek and its associated fisheries and wildlife, FWP recommends that the subdivider designate a 75-foot wide "no-build/alteration" buffer outward from each high water mark along any portions of Ambrose Creek that flow through the property, and delineate and label this "no-build/alteration" buffer on the plat. In addition, FWP recommended that the subdivider designate an additional 25-foot setback outward from the "no-build/alteration" buffer and label this area on the plat. Normal activities, except construction of permanent structures, would be allowed within this setback. (Exhibit A-8)
6. The existing house on the property is approximately 85-feet from Ambrose Creek. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
7. FWP also provided riparian-use covenants that they recommend should be used to guide use of the creek and its associated riparian areas, in order to preserve water quality and functionality of this natural stream, and for protection of properties from eroding banks and possible flooding. (Exhibit A-8)

Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on wildlife and wildlife habitat. (MCA 76-3-608(3), RCSR Section 3-2-8(b)(v)(E))
2. In subdivision review, Ravalli County "may require the subdivider to design the proposed subdivision to reasonably minimize potentially significant adverse impacts identified through review." (MCA 76-3-608(4))
3. When requiring mitigation, Ravalli County must consult the subdivider and "give due weight and consideration to the expressed preference of the subdivider." (MCA 76-3-608(5)(b))
4. House Bill 486 was recently signed into law by the Governor on May 5, 2009. HB 486 amended MCA 76-3-608, which revises the primary subdivision review criteria to separate effects on wildlife and effects on wildlife habitat into separate review criteria. (House Bill 486)
5. Based on the existing riparian habitat buffer along Ambrose Creek, the placement of existing structures on the property, and past agricultural practices of the landowner Staff has determined the no-build/alteration zone proposed by the subdivider and the recommendations provided by the Floodplain Manager for the inclusion of a 100-foot no-build zone stemming

horizontally from the delineated 100-year floodplain boundary will provide for sufficient protection of Ambrose Creek and its associated riparian habitat and will adequately address concerns and mitigative recommendations provided by FWP. (Staff Determination following 1/11/10 Site Visit)

6. Based on the issuance of a waiver from completing a Sensitive Species Report and with the mitigating conditions of approval, effects on wildlife will be reduced. (Staff Determination)

Recommended Conditions to Mitigate the Effects on Wildlife Habitat

- *The notifications shall be included a provision notifying lot owners of the no-build/alteration zone within the subdivision (Condition 1)*
- *The notifications document shall include a provision recommending full cut-off lighting on new construction. (Condition 1)*
- *The covenants shall include a living with wildlife section. (Condition 2)*
- *The covenants shall include riparian use guidelines for the no-build/alteration zone associated with Ambrose Creek. (Condition 2)*
- *The covenants shall include a section discussing the restrictions on the no-build/alteration and no-build zones within the subdivision. (Condition 2)*
- *The no-build/alteration zone as shown on the preliminary plat shall be shown on the final plat. (Condition 15)*
- *A 100 foot no-build zone extending horizontally from the modeled 100-year floodplain of Ambrose Creek shall be shown on the final plat. (Condition 16)*

CRITERION 7: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety

1. The subdivider's proposal is to access four lots via an internal road, Lucy Lane, off Ambrose Creek Road and access Lot 1A-5 via a single driveway off Hoover Lane. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
2. The preliminary road plans for Lucy Lane were approved July 25, 2008 by the RCRBD. (Sunnyside Orchards No.4, Block 14, Lot 1A,, AP Subdivision File)
3. On January 20, 2010, Joshua Biebinger of the Ravalli County Park Board provided a letter to the Planning Department stating the Park Board would like to further recommend a 5-foot easement along the Ambrose Creek Road frontage of the subdivision. The Park Board felt the additional 5 feet of easement will address safety issues along the portion of the roadway by allowing easement for potential future construction of a pedestrian trail. (Exhibit A-12, PB Meeting Minutes 1/20/10)

Emergency Vehicle Access and Response Time

4. The proposed subdivision will be served by the Three Mile Rural Fire District, the Ravalli County Sheriff's Office, Ravalli County E-911, Ravalli County Office of Emergency Services, and Marcus Daly Memorial Hospital EMS Department. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)
5. The Three Mile Rural Fire District has a station approximately 1.7 miles northwest of the subject property. (Summary of Probable Impacts - Sunset Orchards, Block 2, Lot 24, AP Subdivision Application and Ravalli County GIS Data)

Water and Wastewater

6. The subdivider is proposing individual wells and wastewater treatment systems. (Subdivision Application Form - Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)
7. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision File)

Natural and Man-Made Hazards

8. Ambrose Creek meanders along the northern portion of the property. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat) (Site Visit)
9. A Floodplain Analysis was conducted on Ambrose Creek and was conditionally approved by Ravalli County Floodplain Manager, Laura Hendrix, on April 1, 2009. (Exhibit A-7)
10. To mitigate the effects of this subdivision on public health and safety, Mr. Eric Anderson, current Ravalli County Floodplain Manager, provide an update to the recommendations provided by Ms. Hendrix on January 12, 2010 (Exhibit A-11). Mr. Anderson recommended the following:
 - (a) That a no-build/alteration zone be shown on the final plat encompassing the subdivision's modeled/calculated 100-year floodplain of Ambrose Creek as depicted on the preliminary plat.
 - (b) That a 100-foot no-build zone be shown on the final plat extending horizontally from both sides of the subdivision's modeled/calculated 100-year floodplain to protect future property owners and mitigate future flood loss.
 - (c) That any existing structures, utilities, or other improvements within these zones should be "grandfathered" and that the ability to perform maintenance operations or replace existing improvements in kind should be allowed within this zone. However, no additions or expansion of existing facilities should be allowed within the new no-build zone.
 - (d) That in the future, if any drainage structures (including culvert, bridges, etc) crossing Ambrose Creek are constructed or replaced within the limits of the proposed subdivision they should be adequately designed to convey a 100-year flood event with no backwater. This will avoid creating new flooding issues in the future and will ensure consistency with the assumptions in the subdivision's floodplain analysis.
11. The existing house on the property is approximately 85-feet from Ambrose Creek. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Preliminary Plat)
12. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
13. The preliminary plat and soils map indicate there are soil types on the property that are considered "very limited" for construction of roads and/or buildings. (Sunnyside Orchards No.4, Block 14, Lot 1A, AP Subdivision Application)

Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on public health and safety. (MCA 76-3-608(3), RCSR Section 3-2-8(b)(v)(F))
2. In subdivision review, Ravalli County "may require the subdivider to design the proposed subdivision to reasonably minimize potentially significant adverse impacts identified through review." (MCA 76-3-608(4))
3. When requiring mitigation, Ravalli County must consult the subdivider and "give due weight and consideration to the expressed preference of the subdivider." (MCA 76-3-608(5)(b))

Traffic Safety

4. The requirements listed under Roads in Criterion 3 (Effects on Local Services) will mitigate the impacts of the subdivision on traffic safety. (Staff Determination)

Emergency Vehicle Response Time

5. In accordance with Ravalli County Subdivision Regulation Design Standards and Three Mile Rural Fire Department "Fire Protection Standards", all roads and driveways providing access to and within the proposed subdivision will meet County and Fire District standards which will ensure adequate emergency vehicle access. (Staff Determination)

Water and Wastewater

6. In accompaniment to the preliminary plat submittal, the subdivider is required to submit water and sanitation information in accordance with the requirements outlined within MCA 76-3-622(2).
7. The subdivider is required to submit a DEQ Certificate of Subdivision Approval prior to final plat approval. (Final Plat Requirement 9)

Natural and Man-Made Hazards

8. Recommendations offered by the Ravalli County Floodplain Manager will reduce potential public health and safety concerns associated with construction adjacent to floodplains. (Staff Determination)
9. With the mitigating conditions of approval and requirements of final plat approval, impacts on Public Health & Safety will be reduced. (Staff Determination)

Recommended Conditions to Mitigate the Effects on Public Health & Safety

- *The notifications document shall include a statement regarding radon exposure. (Condition 1)*
- *The notifications shall be included a provision notifying lot owners of the no-build/alteration zone within the subdivision (Condition 1)*
- *The notifications document shall include a statement regarding the proximity of Ambrose Creek within the subdivision. (Condition 1)*
- *A notification of the Flood Hazard Zone for Ambrose Creek shall be included in the notification document. (Condition 1)*
- *The notifications document shall include a recommendation that all property owners obtain flood insurance. (Condition 1)*
- *A notification and covenant shall be included that restricts access along the Ambrose Creek Road and Hoover Lane frontages of this subdivision, excepting the approved approaches to the internal subdivision road, Lucy Lane. (Conditions 1 and 2)*
- *A notification and covenant shall be included that explains the restrictions within the no-build zone. (Conditions 1 and 2)*
- *A notification and covenant shall be included that explains the restrictions within the no-build zone. (Conditions 1 and 2)*
- *The covenants shall include riparian use guidelines for the no-build/alteration zone associated with Ambrose Creek. (Condition 2)*
- *The covenants shall include a section discussing the drainage structures and the potential replacement of those structures within the subdivision. (Condition 2)*
- *The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Conditions 2 and 4)*
- *Prior to final plat approval, the subdivider shall provide a letter from the Three Mile Rural Fire District stating that the subdivider has provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for all lots. Alternatively, the subdivider may provide evidence that a \$900 per newly created lot contribution has been submitted to the Three Mile Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)*
- *The following statement shall be shown on the final plat: "The Ravalli County Fire Council, which includes the Three Mile Rural Fire District, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Three Mile Rural Fire District for further information". (Conditions 2 and 6)*

- *The subdivider shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on Public Safety Services (Sheriff, E-911, DES). The subdivider shall ensure that the decided upon mitigation has been implemented prior to final plat approval. (Condition 7)*
- *The subdivider shall work with the Lone Rock and Stevensville School Districts to determine whether or not a bus shelter and/or school bus turnout lane or turnaround should be constructed along Ambrose Creek Road. The subdivider shall provide evidence that they have worked with the School District prior to final plat approval and any required improvements meet the minimum standards as decided upon by the School District. If any improvements are required, the subdivider shall complete the improvements prior to final plat approval. (Condition 9)*
- *The final plat shall show a no-ingress/egress zone along the subdivisions frontage with Ambrose Creek Road and Hoover Lane, except for the approved approach for the internal subdivision road and driveway. (Condition 12)*
- *The no-build/alteration zone as shown on the preliminary plat shall be shown on the final plat. (Condition 15)*
- *A 100 foot no-build zone extending horizontally from the modeled 100-year floodplain of Ambrose Creek, shall be shown on the final plat. (Condition 16)*
- *The following statement shall be shown on the COS: "The lowest enclosed floor of each structure (including crawlspaces and basements) and mechanical utilities of all proposed structures should be a minimum of two (2) feet above the modeled/calculated 100-year floodplain elevation or two (2) feet above the highest adjacent grade (whichever is greater)." (Condition 17)*
- *The final plat shall show an additional 5-foot public trail easement along the Ambrose Creek Road frontage of this subdivision to facilitate a potential future trail along Ambrose Creek Road. (Condition 19)*



EXHIBIT A-1

Farmland Classification

Farmland Classification— Summary by Map Unit — Bitterroot Valley Area, Montana				
Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
132A	Hamilton-Overwhich complex, 0 to 2 percent slopes	Prime farmland if irrigated	1.8	13.3%
146A	Curlew-Riverrun complex, 0 to 2 percent slopes	Not prime farmland	3.8	28.9%
312B	Drygulch coarse sandy loam, 0 to 4 percent slopes	Not prime farmland	7.7	57.8%
Totals for Area of Interest			13.2	100.0%

Description

Farmland classification identifies map units as prime farmland, farmland of statewide importance, farmland of local importance, or unique farmland. It identifies the location and extent of the soils that are best suited to food, feed, fiber, forage, and oilseed crops. NRCS policy and procedures on prime and unique farmlands are published in the "Federal Register," Vol. 43, No. 21, January 31, 1978.

Rating Options

Aggregation Method: No Aggregation Necessary

Tie-break Rule: Lower

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JUL 27 2009

IC 09-07-572
Ravalli County Planning Dept.

Ravalli County Fire Council
Ravalli County, Montana
November 2008

FIRE PROTECTION STANDARDS

The Ravalli County Fire Council (RCFC) has adopted Fire Protection Standards (FPS) for all new subdivisions within Ravalli County. These standards were established with consideration for the life and safety of the residents of Ravalli County, as well as the volunteer firemen and firewomen who protect Ravalli County, and to mitigate possible harm to the general public.

In establishing these standards emphasis was given to the National Fire Protection Association (NFPA) 1 Uniform Fire Code and The Ravalli County Subdivision Regulations (as amended May 24, 2007). These codes and regulations establish rules for dealing with fire apparatus access roads, fire department access to buildings, water supplies for fire protection, installation and maintenance of fire-protection systems and clearance of brush and vegetative growth from roadways.

Consideration was also given to Section 23.7.105 Administrative Rules of Montana, which is adopted pursuant to authority of 50-3-102 (2) and 50-3-103, MCA, which incorporates by reference the NFPA 1 Uniform Fire Code and establishes a minimum fire prevention code for Montana.

ACCESS ROADS

As used in this document, fire apparatus access roads include both internal subdivision roads, and individual driveways leading to structures from County or non-County maintained roads. Where the provisions of this document differ from the provisions of NFPA 1, the provisions of this document shall control.

The Fire District/Department requires that all roads and bridges meet or exceed, and are maintained to, the minimum requirements of the NFPA 1, Chapter 18, which reads in part:

18.2.2.1 Required Access. Fire apparatus access roads shall be provided in accordance with Section 18.2 for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction of a Fire District in Ravalli County.

18.2.2.2 Access To Buildings. A fire apparatus access road shall extend to within 50 ft (15 m) of a single exterior door providing access to the interior of the building.

18.2.2.3.1 Additional Requirements For Access To Buildings. Fire apparatus access roads shall be provided such that any portion of the facility or any portion of an exterior wall of the first story of the building hereafter constructed or moved into or within the

jurisdiction is located not more than 150 feet (46 m) from fire apparatus access roads as measured by an approved route around the exterior of the building or facility.

18.2.2.4 Multiple Access Roads. More than one fire apparatus access road shall be provided when it is determined by the Fire Chief that access by a single road could be impaired by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.

18.2.2.5.1 Dimensions. To allow the safe passage of fire apparatus to and from an incident, fire apparatus access roads shall have an unobstructed travel surface not less than 20 feet in width (6.1 m) and one-foot shoulders on each side for a total width of 22-feet, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4.1 m) over its entire length.

18.2.2.5.2 Surface. Fire apparatus access roads, including internal subdivision roads and individual driveways, shall be designed and maintained to support the imposed loads of fire apparatus over its entire length and shall be provided with a surface so as to provide all-weather driving capabilities.

- The surface of internal subdivision roads shall meet the specifications of the Ravalli County Subdivision Regulations.
- The surface of individual driveways shall be graded and surfaced with gravel, at a minimum.

18.2.2.5.6 Grade. The gradient for a fire apparatus access road shall not exceed the maximum approved by the Fire Chief. The Board of County Commissioners of Ravalli County set the maximum acceptable road grade at ten percent (10%). The Fire Chief may request that access roads be built to not exceed a grade of 6%. The Fire Chief shall write or otherwise contact the Planning Department with the specific request, and outline the rationale for making such a request. The request shall be made prior to the Commissioners meeting/hearing on the proposal.

18.2.2.5.7 Marking of Fire Apparatus Access Road. The Fire District/Department requests that as soon as construction begins all lots (premises) be posted with a temporary or permanent address at the premises driveway and upon occupancy with a permanent address posted in accordance with the NFPA 1.

Exception: When buildings are completely protected with an approved automatic sprinkler system, the provisions of NFPA 1, Chapter 18, may be modified by the Fire Chief.

While not all parts of the NFPA 1 are listed above it is the responsibility of the Subdivision Developer to construct and maintain all fire apparatus access roads to comply with all aspects of the NFPA 1 and the road standards as stated in the Ravalli County Subdivision Regulations.

BUILDING STANDARDS

The RCFC requests that all residential buildings be built to International Residential Building Code (IRBC) standards in order to protect persons and property, and that all subdivisions shall be planned, designed, constructed and maintained so as to minimize the risk of fire and to permit effective and efficient suppression of fires.

FIRE FLOW REQUIREMENTS

At a minimum, every subdivision shall be provided with a water supply for the purpose of fire fighting as specified in NFPA 1. Fire flow requirements will be based upon the smallest lot size in a subdivision. Subdivisions may provide water according to the provisions below, or provide \$900 per lot cash-in-lieu of water.

Single-Family Dwellings:

Acres Per Lot/Density	Required GPM	Fire Flow Requirement Options
20 or more acres per lot	500/one hour	#1 or #2 or #3
5 - 19.99 acres	500/two hours	#1 or #2
1 - 4.9 acres	750/two hours	#1 or #2
.5 - .99 acres	1000/two hours	#1 or #2
.25 - .49 acres	1000/two hours	Hydrants spacing every 1000 feet, and #2
Less than .25 acres	1500/two hours	Hydrants spacing every 500 feet, and #2 or #4

Fire Flow Requirement Options

Option #1. Water shall be supplied by a well and pump with required volume and minimum pressure of 20 PSI. An overhead fill may be required in order to fill tankers. The fill site must be useable year round and the Fire District/Department must have legal access in perpetuity.

Option #2. Water shall be supplied by a tank/pressurized hydrant combination. The tank may be constructed from plastic, concrete, fiberglass or other materials capable of holding and maintaining the required water supply. The tank must be built and installed so as to last a minimum of 30 years. The pump must be capable of delivering the required gpm at a minimum of 20 PSI from an approved fire hydrant. The system shall be inspected and certified by a Professional Engineer and a copy of the inspection and certification will be provided to the Fire District/Department and to the County Planning Department prior to the filing of the final plat.

Option #3. 30,000 gallon storage with dry hydrant. Dry hydrant applications may be used for ponds, streams and lakes. The system must be designed to be useable and accessible year round. All pipe must be a minimum of 6 inch diameter and the threads at the outlet must be 6 inch male NST.

Option #4. Water shall be supplied by a community water system. The system shall be capable of delivering the required gpm at a minimum of 20 PSI from approved fire hydrants. The system shall be inspected and certified by a Professional Engineer and a copy of the inspection and certification will be provided to the Fire District/Department and County Planning.

Single-Family Dwellings Greater Than Two Stories:

In addition to providing water supply according to the above requirements, single-family dwellings more than two stories in height above ground are required to install a residential sprinkler system. The system shall be engineered, installed, fully operational and compliant with the current edition of the applicable NFPA standard.

Buildings Other Than Single-Family Dwellings:

All other developments including multi-family dwellings, commercial, industrial, or mixed use buildings require fire flows higher than 500 GPM for 120 minutes and will have to be engineered by the developer to determine needed fire flows in accordance to NFPA 1 fire flow requirements. The Fire District/Department shall approve of the design for fire flow prior to construction and the fire flow facilities after construction.

Buildings other than single-family dwellings shall be sprinkled according to NFPA standards. Commercial storage units are exempt from sprinkling requirements.

Cash-in-lieu of Water Option:

The Fire District/Department realizes the financial burden of installing and maintaining a water supply and or storage tanks capable of providing the required water flows and is willing to accept a voluntary contribution payment of \$900.00 (Nine Hundred Dollars) per lot, in lieu of the water supply required by the NFPA 1. Payment of \$900.00 per lot will be due prior to the final plat approval of the subdivision. Funds paid in lieu of the water supply required by the NFPA 1 will be used to maintain or improve fire protection within the District/Department.

Reduced Required Fire Flow with Sprinkler System:


If all habitable structures are sprinkled according to NFPA standards, then up to one half of the water supply requirements will be waived and the in lieu of payment schedule may be reduced by 50% (fifty percent). The Subdivision Covenants must state that "All residences constructed within the subdivision will be protected with an approved automatic sprinkler system." Payment for the reduced amount of \$450.00 per lot will be due prior to the final plat approval of the subdivision. If at any time any residence is built within the subdivision without an approved sprinkler system, all lots will be subject to an additional \$450.00 payment, regardless of whether they have sprinklers in residences located on them or not.


Maintenance:


The water supply installation, upkeep and maintenance will be the responsibility of the Subdivision, pursuant to NFPA 1, Section 18.3.5. A homeowners association must be created. Homeowners association documents shall describe how water supply systems are

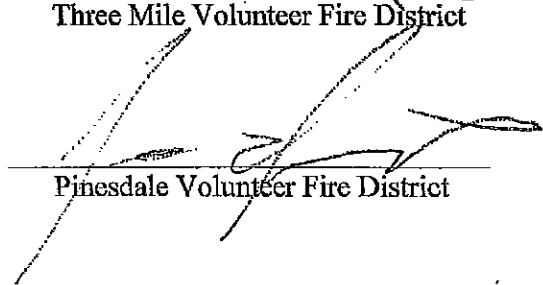
to be maintained currently and in the future, by whom, and how local fire protection authority can be assured that the water supply will function appropriately. An easement for unrestricted use by the fire department, in perpetuity, of the water supply system shall be recorded and noted on the plat. The fire department will not be responsible for any maintenance, electricity, or any costs associated with enhancements, upgrades or other measures necessary to assure the system functions to original specifications.

Ravalli County Fire Council:



Florence Volunteer Fire District

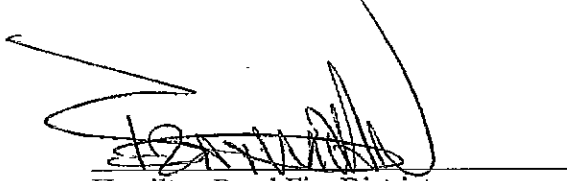

Three Mile Volunteer Fire District



Stevensville Rural Volunteer Fire District


Pinesdale Volunteer Fire District

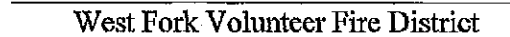

Victor Volunteer Fire District

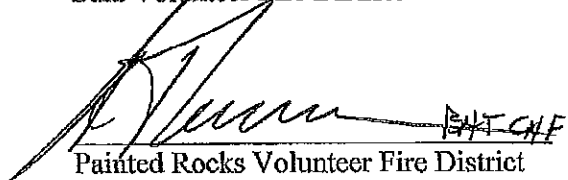

Corvallis Volunteer Fire District


Hamilton Rural Fire District


Darby Volunteer Fire District


Sula Volunteer Fire District


West Fork Volunteer Fire District


Painted Rocks Volunteer Fire District

Year 2009-2010

NOTE: Those data do not include any federal funds or special grants.

This makes these figures reflect budget and revenue only from state, county and local sources. It does include some special education that is in the General Fund.

School	Total Budget	Students October Count	Per Pupil
Corvallis	9,670,479	1,338	7,228
Stevensville Elem	4,521,379	602	7,511
Stevensville HS	3,900,120	366	10,656
Hamilton	11,495,737	1568	7,331
Victor	2,491,954	419	5,947
Darby	3,859,968	377	10,239
Lone Rock Elem	2,092,062	270	7,748
Florence	6,411,211	891	7,196

8,699.90 Average of HS and Elementary for Stevensville School

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Douglas County Planning & Public Hearing

School	Total Tax Except Capital ¹	Students October Count ²	County Levy ³	Tax Levy Per Pupil Exc Capital ⁴	Total Capital ⁵	Per Pupil Tax Capital ⁵	Total Tax Levy Inc Capital ⁷	Tax Levy Per Pupil Inc Capital ⁸
Corvallis	1,833,642	1,338	938,439	2,072	169,679	126.82	2,941,760	2,199
Stevensville Elem	1,038,635	602	249,000	2,139	138,678	230.36	1,426,313	2,369
Stevensville HS	811,176	366	390,346	2,283			1,201,522	3,283
Hamilton	3,093,209	1,568	1,109,082	2,680	887,490	566.00	5,089,781	3,246
Victor	518,514	419	258,197	1,854	326,132	778.36	1,102,843	2,632
Darby	1,204,631	377	427,381	4,329		0.00	1,632,012	4,329
Lone Rock Elem	422,529	270	249,000	2,487	102,432	379.38	773,961	2,867
Florence	1,427,593	891	436,147	2,092	72,182	81.01	1,935,922	2,173

NOTES:

- 1 Total Tax except capital - District levied tax excluding debt service
- 2 Student October Count - The first official student count day of the year (actual student count)
- 3 County Levy - The county levies for districts retirement and transportation
- 4 Tax Levy per pupil - Total District levy plus county levy divided by the student October count
- 5 Total Capital - Amount levied for debt service (capital)
- 6 Tax Capital per pupil - Cost per pupil for debt service (capital)
- 7 Total Tax levy plus Capital Tax - All levied dollars for schools
- 8 Total Tax levy plus Capital Tax - Per pupil cost of all levied dollars.

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OCT 15 2007

IC-07-10-1305
Ravalli County Planning Dept.



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OCT 15 2007

Ravalli County Commissioners

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October 15, 2007

James Rokosch, Chair
Ravalli County Commissioners
215 South 4th Street, Suite A
Hamilton, MT 59840

Dear Commissioner Rokosch,

In the last meeting of the Ravalli County Educational Transportation Committee a discussion was held concerning the new sub-divisions in Ravalli County. There was a great concern for the safety of the children who attend Ravalli County schools and who live with the varying conditions in the variety of subdivisions in the county.

Therefore, the group unanimously adopted a resolution requesting the Commissioners establish a requirement that the developers of each subdivision establish a shelter at a bus stop and a possible turnout, or turn around if appropriate, at each subdivision entrance that is off the county owned and maintained road.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ernie Jean Edd".

Ernie Jean Edd
County Superintendent

EXHIBIT A-4

Randy Fifrick

From: David Ohnstad
Sent: Wednesday, January 13, 2010 2:31 PM
To: Randy Fifrick; Tristan Riddell
Cc: Nichols, Mike
Subject: FW: Sunnyside Orchards 4, Block 14, Lot 1A, AP Variance Request

Permits have been issued for the three accesses noted below. The access off Hoover Lane was submitted 11/14/07 and approved 12/05/07; the westerly access onto Ambrose Creek Road was submitted 11/13/08 and approved 01/04/10 and the easterly access onto Ambrose Creek Road was submitted 04/20/09 and approved 05/14/09.

There appears to have been some degree of uncertainty on the part of the project owner in submitting these applications, and some degree of miscommunication. Section II, Part H of the RCRBD policy on Access Encroachment provides that "no person(s) may submit an application for the subdivision of property abutting a county roadway unless the subdivision development plan provides that all parcels created by the subdivision will have access to the roadway system in conformance with this policy and the Ravalli County Subdivision Regulations". The westerly access onto Ambrose Creek Road currently exists, the other two do not. The original subdivision plat proposal (04/12/07) did not include the easterly access onto Ambrose Creek Road. The access permit applications for the two new accesses should have been submitted as "preliminary approach" requests and as a part of the subdivision design. The Access Encroachment policy, Section III, Part B provides guidance on access onto Minor Collector roadways, such as Ambrose Creek Road. We find that a second residential access onto Ambrose Creek Road is not consistent with the terms of the policy. We find that the requested easterly access onto Ambrose Creek Road was not submitted within the context of a subdivision proposal.

The approval of that access is revoked as not consistent with adopted policy as noted above. We find that the access onto Hoover Lane, while exceeding guidance in the policy, may be acceptable provided it is within the context of the subdivision proposal and is approved through the county's planning process.

From: David Ohnstad
Sent: Wednesday, January 13, 2010 8:18 AM
To: Randy Fifrick
Cc: Nichols, Mike
Subject: RE: Sunnyside Orchards 4, Block 14, Lot 1A, AP Variance Request

We currently have three access requests for this project - one on Hoover Lane and two on Ambrose Creek Road. The access furthest west on Ambrose Creek Road is an existing approach that would need to be re-constructed to meet current design standards, and would provide access to Lots 1A-1, 1A-2 and 1A-3. The access onto Hoover Lane is proposed within an existing sixty-foot easement and would provide access to Lots 1A-4 and 1A-5. We find that these provide reasonable access to the project - in fact allow greater access than is provided for in adopted policy. We will not approve additional access onto Ambrose Creek Road.

From: Randy Fifrick
Sent: Friday, January 08, 2010 9:32 AM
To: David Ohnstad
Subject: Sunnyside Orchards 4, Block 14, Lot 1A, AP Variance Request

Hi David,

I am in the process of writing a draft staff report for the above named subdivision. The applicant is requesting a variance from Section 5-2-2(c)(6) of the Ravalli County Subdivision Regulations to relieve the applicant from constructing an internal road that would provide access to all lots within the

EXHIBIT A-5

1/14/2010

subdivision. The applicant is proposing to construct an internal road that would provide access to 3 of the lots with a common driveway providing access to the additional 2 lots.

Could you provide with any comments the RCRBD may have on this variance request? I attached a vicinity map and preliminary plat to this email for your reference.

Thanks,

Randy Ffrick

Ravalli County Planner II
215 S 4th St, Suite F
Hamilton, MT 59840
406-375-6530
rffrick@ravallicounty.mt.gov

BIG SKY DISTRICT
GROWTH MANAGEMENT

RECEIVED

JUN 13 2007

Ravalli County Planning Dept.



10-07-06-729

June 8, 2007

To: County Planning Office
Subject: Mail Delivery Options for New Subdivisions

The US Postal Service would like to partner with your county in preliminary planning for new subdivisions. We are looking for methods to ensure mail delivery is available to customers on day one of occupancy in a new development. We are asking for your help to make sure we have a consistent approach across the state. Developers have approached us suggesting that mail delivery plans/requirements be included with the original applications to the county for plat approval. We think this is a wonderful idea.

Would your county be able to incorporate the following US Postal Service requirements into your plat applications?

- Centralized Delivery is the method of delivery for all subdivisions and/or developments including commercial developments.
- Developers/owners should contact their local Post Office before making plans for the location of centralized delivery. Locations for Centralized Delivery installation are determined by the US Postal Service or by mutual agreement.
- The purchase of Collection Box Units (CBU's) is the responsibility of the developer or owner(s). A current list of authorized manufacturers is attached.
- The attached outlines concrete pad specifications for CBU placement.

We have had incredible success in other Montana counties by combining planning requirements into the initial plat applications and look forward to the continued success with your county. This process has made it much easier for developers, owners, and residents to quickly and easily obtain mail delivery.

Please contact me at 406-657-5710 or at the address below with any questions you may have in regards to new growth policies of the US Postal Service within our Big Sky District.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Wyrwas".

Mike Wyrwas
Growth Management Coordinator
Big Sky District

841 S 26TH STREET
BILLINGS, MT 59101-9334
PHONE 406-657-5710
FAX: 406-657-5788
EMAIL MIKE.WYRWAS@USPS.GOV

EXHIBIT A-6

Randy Fifrick

From: Wyrwas, Mike - Billings, MT [mike.wyrwas@usps.gov]
Sent: Friday, June 29, 2007 9:26 AM
To: Randy Fifrick
Subject: RE: Mail Delivery Options for New Subdivisions

Randy:

We are on the same page in regards to mail delivery options for new subdivisions, with the following exceptions:

- 1) If a subdivision has less than eight (8) lots, centralized delivery may be required if the entrance to a subdivision is a private road or the local post office feels that a CBU is more efficient than a row of rural mail boxes.
- 3) CBU units do not have to be installed prior to final plat approval. They can be installed after final plat approval as long as the locations are approved by the local post office.

If situations do occur where your department does not review some building projects, please direct any questions regarding mail delivery to the local Postmaster.

Thanks for your attention to our mail delivery options.

Mike Wyrwas
Operations Programs Support

-----Original Message-----

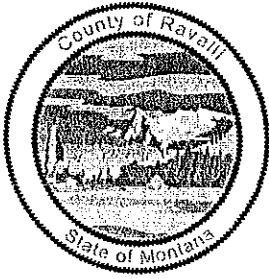
From: Randy Fifrick [mailto:rfifrick@ravallicounty.mt.gov]
Sent: Tuesday, June 26, 2007 8:59 AM
To: Wyrwas, Mike - Billings, MT
Subject: Mail Delivery Options for New Subdivisions

Hi Mike,

I discussed our conversation on June 26th and your letter dated June 8th with the rest of the Planning Department. I just wanted to confirm that we are on the same page as to the mail delivery options for new subdivisions. Following is a list of items the Planning Department should request or require from developers:

- 1) Centralized Delivery should be required for subdivisions of eight or more lots, including commercial subdivisions.
- 2) Developers/owners should submit plans for Collection Box Units (CBUs), including the locations, to their local post office. Locations for centralized delivery installation should be approved by the US Postal Service.
- 3) The purchase of the Collection Box Units (CBU's) is the responsibility of the developer or owner. The units should be installed by the developer prior to final plat approval.

Please be advised that certain situations do not require subdivision review so the projects never come through the Planning Department. Multi-unit commercial buildings constructed on one lot (strip mall, etc) do not require subdivision review if the units are structurally attached and will be rented/lease (not sold as condominiums).



Planning Department
215 South 4th Street, Suite F
Hamilton, MT 59840
Phone 406-375-6530
Fax 406-375-6531
planning@ravallicounty.mt.gov

OG-09-04-141

April 1, 2009

Ron Uemura, PE
RAM Engineering
PO Box 2130
Hamilton, MT 59840

RE: Floodplain Analysis - Gonzalez Subdivision, SSO #4, Blk 14, Lot 1-A, Ambrose Creek
774 Ambrose Creek Road, Stevensville
Parcel #1270710, Geocode #1765-05-3-01-01-0000

Dear Mr. Uemura,

We have completed our review of the floodplain analysis according to Section 3-1-5 (a)(xl) of the effective Ravalli County Subdivision Regulations for the above proposed subdivision. The floodplain analysis was also reviewed by Larry Schock, Regional Engineer for the Montana Department of Natural Resources and Conservation (DNRC) for technical accuracy. We concur with his review of the methodology used to calculate the 100-year flood and his suggestion that the method provides a "reasonable" representation of the 100-year floodplain for this reach of Ambrose Creek.

To mitigate the impacts to public health and safety and to minimize the effects of development on the natural environment, we recommend the following conditions:

1. In an effort to protect property owners and mitigate future flood losses, a 100 foot setback (no build/alteration zone) should be established extending horizontally from both sides of the modeled/calculated 100-year floodplain for this reach of Ambrose Creek. The no build/alteration zone should be inclusive of both the modeled/calculated floodplain and the creek. (This setback distance is consistent with the 100 foot setback guideline in the Subdivision Regulations Design and Development Standards, Section 5-2-2 (a)(12).)
2. The lowest enclosed floor (including crawlspaces and basements) and mechanical utilities of all proposed structures should be located a minimum of two (2) feet above the modeled/calculated 100-year floodplain elevation or (2) feet above the highest adjacent grade (whichever is higher). A benchmark should be established within the proposed subdivision so that landowners and contractors can confirm that the two (2) foot elevation requirement has been met.
3. Any culverts, roads and/or bridges constructed across drainages within or adjacent to the proposed subdivision should be adequately sized and maintained to convey floodwaters, avoid the obstruction of debris and ensure safe and dry access for property owners or emergency services.
4. Although the proposed subdivision is not currently located within a FEMA-mapped

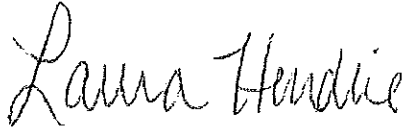
EXHIBIT A-7

floodplain, it is strongly recommended that the property owners obtain flood insurance since standard homeowner's insurance policies do not cover flood damages.

Consequently, the floodplain analysis for the proposed subdivision is conditionally approved and all above recommendations should be appropriately considered.

If you have any questions, please feel free to contact our office.

Sincerely,



Laura Hendrix, CFM
Ravalli County Floodplain Administrator



John Lavey
Ravalli County Planning Director

Cc: Correspondence File - General
Jon Wickersham, Ravalli County Planner (w/map enclosed)
Floodplain Analysis File



Montana Fish, Wildlife & Parks

Region 2 Office
3201 Spurgin Road
Missoula, MT 59804-3099
Phone 406-542-5500
Fax 406-542-5529
April 21, 2009

John Wickersham
Ravalli Co. Planning Department
215 S. 4th St., Ste. F
Hamilton, MT 59840

Reference: Sunnyside Orchards, Lot 1A (#4, Blk 14; Gonzalez)--Proposed minor subdivision (5 lots on 13.0 acres; SW4 Sec 5, T9N, R19W), ~5 miles NE of Stevensville

Dear Mr. Wickersham:

We have reviewed the preliminary plat for this proposed subdivision, and our comments follow.

Wildlife

This proposed subdivision is located in a rural area, with larger tracts and agricultural lands nearby. The parcel includes a section of Ambrose Creek and associated riparian areas. There is an increased probability of human/wildlife interactions at this location. In particular, wildlife such as white-tailed deer, coyote, fox, skunk and wild turkey could be found in the area, as well as possible black bear and mountain lion. Numerous bird and small mammal species use the surrounding area. We recommend that "living with wildlife" issues be conveyed to residents in this subdivision as part of the covenants, in order to help them prepare for and hopefully avoid potential conflicts with wildlife. We have enclosed our recommended covenant version for this location.

Fisheries

Ambrose Creek flows generally east to west through the northern portions of Lots 1, 3 and 4. FWP has not sampled for fish in the vicinity of the proposed subdivision, but FWP sampling several miles upstream yielded westslope cutthroat trout, a Montana Species of Concern.¹ In

¹ A native animal breeding in Montana that is considered to be "at risk" due to declining population trends, threats to its habitats, and/or restricted distribution. The purpose of Montana's Species of Concern listing is to highlight species in decline and encourage conservation efforts to reverse population declines and prevent the need for future listing as Threatened or Endangered Species under the Federal Endangered Species Act.

order to protect Ambrose Creek and its associated fisheries and wildlife, we recommend the following:

1. Designate a 75-foot wide “no build/no alteration” buffer (NBNAB) outward from each high water mark along any portions of Ambrose Creek that flow through this property, and delineate and label this NBNAB on the plat. No building or alteration would be allowed in this buffer zone.
2. Designate an additional 25-foot setback outward from the NBNAB, and delineate/label this on the plat. Normal activities--except construction of permanent structures--would be allowed within this setback.
3. Riparian-use covenants should be required to guide use of the creek and its associated riparian areas, in order to preserve water quality and functionality of this natural stream, and for protection of properties from eroding banks and possible flooding. We have enclosed our recommended version.

Thank you for providing the opportunity for FWP to comment on this subdivision.

Sincerely,

/s/ Mack Long

Mack Long
Regional Supervisor

ML/sr

Covenant sections for Sunnyside Orchards, Lot 1A (#4, Blk 14; Gonzalez) recommended by Montana Fish, Wildlife & Park; Missoula; April 20, 2009

Section __: Wildlife

Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the presence of wildlife such as white-tailed deer, mule deer, black bear, mountain lion, coyote, fox, skunk, raccoon, and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at <http://fwp.mt.gov>.

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees** or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, use properly constructed electric fences and maintain these constantly. (Contact FWP for information on "all-species electric fencing" designed to exclude wildlife from gardens and/or home areas.)
- c. **Garbage** must be stored in secure animal-resistant containers or indoors to avoid attracting wildlife such as raccoon and black bear. If stored indoors, it is best not to set garbage cans out until the morning of garbage pickup; bring cans back indoors by the end of the day.
- d. **Do not feed wildlife** or offer supplements (including salt blocks), attractants, or bait for deer, sheep or other wildlife, including during the winter. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for

game animals) or to provide supplemental feed attractants in a manner that results in “an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety.” Also, homeowners must be aware that deer can attract mountain lions to the area.

- e. Bears can be attracted to food smells associated with **outdoor food storage**; therefore, freezers and refrigerators should not be placed outdoors on porches or in open garages or buildings. If a freezer/ refrigerator must be located outdoors, attempt to secure it against potential bear entry by using a stout chain and padlock around the girth of the freezer.
- f. **Birdseed** in bird feeders attracts bears. If used, bird feeders must: 1) be suspended a minimum of 20 feet above ground level, 2) be at least 4 feet from any support poles or points, and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- g. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124).
- h. **Pet food and livestock feed** must be stored indoors, in closed sheds or in bear-resistant containers in order to avoid attracting wildlife such as bears, mountain lion, skunk, and raccoon. **When feeding pets and livestock**, do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- i. **Barbecue grills** should be stored indoors. Permanent outdoor barbecues grills are not allowed in this subdivision. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife. (Due to the potential hazard of fire and explosion, propane cylinders for gas-fueled grills should be disconnected and kept outdoors. Under no circumstances should propane cylinders be stored indoors.)
- j. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences. Contact FWP for a brochure or information on building fence with wildlife in mind.
- k. **Compost piles** can attract skunks and bears. If used they should be kept in wildlife-resistant containers or structures. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Due to the potential fire hazard associated with decomposition of organic materials, compost piles should be kept at least 10 feet from structures.)

- l. **Apiaries (bee hives)** could attract bears in this area. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
- m. These wildlife covenants cannot be changed or eliminated without the concurrence of the governing body (County Commissioners).

Section __: Covenants for use of Ambrose Creek and its riparian area

Healthy, naturally functioning riparian areas benefit fish and wildlife, as well as agriculture and recreation. Encouraging the development of native vegetation (including shrubs and trees)--while *discouraging* actions such as grading, planting and irrigating lawns, mowing or cutting or clearing vegetation, and unrestricted livestock grazing--would help preserve the functionality of the creek and its riparian areas for fisheries, as well as protect and improve wetland vegetation, enhance slope stability, and protect property from eroding banks and possible flooding. The goal of the “no build/no alteration buffer” and the building setback along Ambrose Creek is to protect the creek and its associated riparian area, as well as its fisheries and wildlife. The following covenants (restrictions) are designed to help avoid damage to creek and its riparian areas, as well as possibly enhancing the natural functioning of the area.

There is a 75-foot buffer (“no build/no alteration buffer”) outward from each high water mark of Ambrose Creek. The creek and this 75-foot buffer are “no build/no alteration” areas, hereafter referred to collectively as the “buffer zone” for Ambrose Creek. Additionally, there is a 25-foot no-build setback, measured outward from each buffer.

New permanent structures may not be built in either the 75-foot buffer or the 25-foot setback (i.e., no new structures may be constructed within 100-feet of the high water mark outward from each side of Ambrose Creek).

Additionally, the following restrictions apply to the creek and its 75-foot buffers that are within this subdivision:

- a. No building, no new roads or alteration of the zone is allowed.
- b. No motorized use. Only foot traffic is allowed in the zone.
- c. It is illegal to modify the streambed or streambanks of a perennial stream without a “310” permit (Montana Natural Streambed and Land Preservation Act). Certain other actions near Ambrose Creek may require state and/or federal permit(s). Contact the Ravalli County Conservation District office in Hamilton for further information.
- d. Keep livestock out of stream and buffer zone. Develop off-stream watering facilities (e.g., water troughs) for livestock, and use fences if necessary to keep livestock from trampling and grazing riparian vegetation. (See later covenant item for wildlife friendly fence guidelines.)
- e. Development of off-channel watering facilities cannot include water from Ambrose Creek if the lot(s) does not have valid water rights to the stream. If no water rights exist for, or have not been transferred to the property, then water cannot be diverted from the creek for any use. Residents should consult with the Montana Department of Natural Resources for questions on water rights.
- f. Wildlife-friendly fence guidelines. a) For wooden rail fences: no more than 3 rails, with the bottom of the bottom rail at least 18” off the ground; top of the top rail no higher than

42" off the ground; b) For wire fences: use smooth wire, no more than 3 wires, top wire no higher than 42" off the ground and bottom wire at least 18" from the ground. These designs allow calf elk, fawn deer and other wildlife to crawl under the fencing, while allowing adult elk and deer to jump the fence. (Contact FWP for information or a brochure for building fence with wildlife in mind.)

- g. No disturbance of vegetation--Do not cut or remove live or dead vegetation, particularly shrubs and trees in the zone. Wood (i.e., fallen branches, downed trees) is an important part of fish habitat and contributes significantly to overall stream health. Wood regularly causes bed scour that creates pools where fish reside to feed and seek cover. Wood also stores sediment that is used for spawning. Dead trees also function as important wildlife nesting habitat. Exception: proper use of chemicals or other methods of control for noxious weeds is encouraged, and planting appropriate native riparian vegetation (trees, shrubs) is allowed.
- h. Do not plant lawns or mow in the zone. Leave or plant native vegetation as ground cover as this avoids the use of fertilizers that contribute to water quality problems.
- i. If planting is planned for this area, the goal should be to re-establish native plant species (grasses, forbs, shrubs and trees) appropriate to the site.
- j. In summary, allow riparian areas to remain undisturbed. Do not modify them unless such change would help return the area to a natural state.
- k. These wildlife covenants cannot be changed or eliminated without the concurrence of the governing body (County Commissioners).

Randy Fifrick

From: Lea Jordan
Sent: Tuesday, April 01, 2008 1:29 PM
To: Karen Mahar; Karen Hughes; Renee Lemon
Subject: FW: Updated PM2.5 Data Review

Dear Interested Party:

The Montana Department of Environmental Quality (DEQ) has reviewed the PM2.5 (particulate matter ≤ 2.5 micron) data collected in 2007 and incorporated it into the PM2.5 dataset from the previous three years (2004-2006). As part of that analysis, DEQ identified several communities that continue to experience poor air quality during certain time periods each year. Those communities are located in the following counties: Lincoln, Missoula, Silver Bow, Ravalli, Gallatin, Lewis & Clark, Flathead, Sanders, Yellowstone and Cascade. Attached is a document summarizing some of the issues with the revised particulate matter (PM) National Ambient Air Quality Standards (NAAQS) and PM data for several Montana communities. This document is also available on the DEQ website under the What's New section of the Air Quality Information page (<http://deq.mt.gov/AirQuality/AQinfo.asp>).

As required by the Federal Clean Air Act and based on ambient air monitoring data collected in 2004, 2005 and 2006, DEQ in December 2007 notified EPA as to which Montana communities were not complying with the PM NAAQS. EPA will review Montana's submittal and our latest air monitoring data as it becomes available before making a decision on which communities are in violation of the federal standards. In the future for those Montana communities found in violation of any NAAQS, federally enforceable control plans must be submitted to EPA for their approval. In a proactive attempt, DEQ wants to work with local air pollution control agencies, the regulated community, and other interested parties to identify and control sources of particulate matter air pollution. DEQ representatives are willing to meet with interested parties in their communities at mutually agreed upon dates and times. In addition to the PM NAAQS discussion, other air quality topics of interest could be discussed. If interested, please contact myself or Bob Habeck (bhabeck@mt.gov or 444-7305) to schedule a meeting.

As part of the annual air quality data review process, DEQ will hold a public meeting to discuss the future direction of Montana's ambient air monitoring network. That meeting will be held on Wednesday, 19 March 2008 from 8:30 A.M. to 12:30 P.M. The meeting location is the Middle Commission Room in the Fish, Wildlife & Parks building at the 1420 East 6th Avenue in Helena. If you need further directions or other information, please contact me.

Thank you for your interest in protecting Montana's clean air resource.

Robert K. Jeffrey
Air Quality Specialist
Air Resources Management Bureau
MT Dept. of Environmental Quality
(406) 444-5280; fax 444-1499
Email: rjeffrey@mt.gov

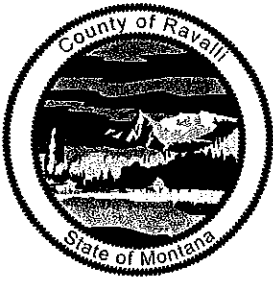
Sunnyside Orchards #4 Block 14, Lot 1A Sensitive Species Waiver

It is my recommendation that a sensitive species report be waived for Sunnyside Orchards #4, Block 14 for the Gray Wolf due to lack of habitat on the property. This was confirmed on a site visit in March 2009.

Gray Wolf-

- The Gray Wolf prefers areas that contain native ungulates. Due to the lack of deer and elk on this property it is highly unlikely that the Gray Wolf frequents the property. This property lacks the habitat needed to attract the Gray Wolf and their prey. Currently, this property is an open field in hay production.

*Waiver approved
6/2/09
TOR*



Planning Department
215 South 4th Street, Suite F
Hamilton, MT 59840
Phone 406-375-6530
Fax 406-375-6531
planning@ravallimontana.gov

MEMO

Date: January 12, 2010

To: Randy Fifrick, Ravalli County Planner

From: Eric Anderson, Ravalli County Floodplain Manager

RE: Proposed Sunnyside Orchards Subdivision, No. 4, Block 14, Lot 1-A, AP (Gonzalez)
Parcel #1270710, Geocode #1765-05-3-01-01-0000

Thank you for the opportunity to comment on the above named subdivision proposal. In a letter dated April 1, 2009, Laura Hendrix (previous Floodplain Administrator) gave conditional approval of the floodplain analysis. The letter also included several recommendations to mitigate the potential impact of flooding. I have reviewed the subdivision proposal, visited the site, and offer the following recommendations. In general, the recommendations contained within this letter are consistent with those given in the April 1, 2009 letter with slight modifications.

1. In an effort to protect future property owners and mitigate future flood losses, a *No Build/Alteration Zone* that encompasses the subdivision's modeled/calculated 100-year floodplain for this reach of Ambrose Creek is recommended. Furthermore, a 100-foot *No Build Zone* that extends horizontally from both sides of the subdivision's modeled/calculated 100-year floodplain is also recommended. Any existing structures, utilities, and other improvements within these zones should be "grandfathered". The ability to perform maintenance operations or replace existing improvements in kind should be allowed. However, no additions or expansion of existing facilities should be allowed within the new *No Build Zone*.
2. The lowest enclosed floor (including crawlspaces and basements) and mechanical utilities of all proposed structures should be located a minimum of two (2) feet above the modeled/calculated 100-year floodplain elevation or (2) feet above the highest adjacent grade (whichever is higher). A permanent benchmark should be established within the proposed subdivision so that landowners and contractors can confirm that the two (2) foot elevation requirement has been met.
3. In the future, if any drainage structures (including culvert, bridges, etc) crossing Ambrose Creek are constructed or replaced within the limits of the proposed subdivision they should be adequately designed to convey a 100-year flood event with no backwater. This will avoid creating new flooding issues in the future and will ensure consistency with the assumptions in the subdivision's floodplain analysis.
4. Although the proposed subdivision is not currently located within a FEMA-mapped floodplain, it is strongly recommended that the property owners obtain flood insurance since standard homeowner's insurance policies do not cover flood damages.

EXHIBIT A-11

RECEIVED

JAN 20 2010

IC-10-01-52
Ravalli County Planning Dept.

Ravalli County Park Board

215 South 4th Street, Suite A
Hamilton, Mt 59840
406-375-6500•406-375-6507 fax

January 19, 2010

Randy Fifrick
Ravalli County Planning Department
215 4th Street, Suite C
Hamilton, Mt 59840


Subject: Sunnyside Orchards #4

Dear Mr. Fifrick:

The Ravalli County Park Board would like to further recommend a 5Ft easement along Ambrose creek rd. This we feel, would help address safety issues along that portion of the roadway.
(Per Gary Lease, Chairmen)

If you have any further questions, please do not hesitate to contact me.

Sincerely,



Joshua J. Biebinger
Ravalli County Park Board

EXHIBIT A-12

January 10, 2010

RECEIVED
JAN 14 2010
IC-10-01-37
Ravalli County Planning Dept.

Ravalli County Planning Department
215 South 4th Street
Suite F
Hamilton, MT 59840

Subject: Sunnyside Orchards No. 4, Block 14, Lot 1A, Subsequent Minor
Subdivision and Variance Request

I am writing to provide input in the proposed Sunnyside Orchard subdivision
located off Ambrose Creek Road and Hoover Lane in Stevensville.

As one of the owners of an adjoining property, I have the following
comments/concerns:

- The property being subdivided should be marked in accordance with the original plot. I am requesting this specifically because we have allowed Mr. Gonzales to harvest hay grown on our property.
- The water pressure at our house is minimal. By adding four new homes to the area, I am concerned that the water pressure would be reduced even further, especially during the summer months when water use is high for watering lawns. If the homes will use the BRID irrigation system, I would still have concerns, as there is often not enough water pressure available in the BRID system to water our lawn.
- The effects of additional septic systems in an area where there is a pond frequented by waterfowl and wildlife in close proximity. There is also a creek in the area.
- The effects on traffic and pedestrian safety in the area: 1) Ambrose Creek Road has a fairly blind corner on the north side when entering from Hoover Lane; 2) Reduced visibility as you approach the proposed subdivision from the east.

Thank you for considering my comments,



Jay R. Carlson

EXHIBIT B-1